Telefónica

Telefónica response to ERG roaming guidelines public consultation (June 17th, 2009)

Telefónica welcomes this opportunity to share with the European Regulatory Group (ERG) its views on the functioning/implementation of the new roaming regulation and provide input to the draft roaming guidelines that the ERG has opened for public consultation. Telefonica believes that there has to be an ongoing dialogue with regulators over the coming months when the different parts of the regulation will be implemented.

First of all, Telefónica welcomes the publication of the ERG Draft Guidelines as they help operators to comply better with the implementation of the regulation. Telefónica supports the ERG Draft Guidelines as far as they do not go beyond the actual scope of roaming regulation. Our comments are based on information regarding roaming services provided by Telefónica's operating business units within the European Union and identify main points of concern in relation with the ERG Draft Roaming Guidelines.

These comments are complementary to and should be read in conjunction with those made through the GSM Association.

We would like to highlight that Telefónica fully supports transparency as a key ingredient that makes competitive markets functioning. We have a strong incentive to maintain and increase our customers' confidence in the use of our services. That is why we have introduced transparency measures and plan to introduce more over the coming months. However, it must be remembered that some transparency measures involve significant IT developments and are both

complex and costly. Transparency measures should be in line with operator's prices and IT infrastructure in their domestic markets and regulators should not impose an inappropriate system which entails unnecessary costs without considering the benefits for the customer and whether these are proportionate. IT developments are complex and regulators should not impose detailed formats irrespective of the practical issues concerning implementation. It should be left to operators to decide the type of control tools that meet the regulation and customer demands at the lowest cost.

Additionally, Telefónica would like to make the following specific comments:

■ Telefónica believes the problem of "bill shock" does not exist for pre-pay customers because expenditure is limited to the available credit on the prepaid card and customer can check the remaining balance permanently. Implementing a mirror image of the requirements for post-pay customers for pre-pay would entail developing two completely separate IT system upgrades as they run on different systems. Telefónica would ask the ERG to acknowledge in its Guidelines that such a parallel implementation for pre-pay customers would be disproportionate and would not add any relevant safeguards.

■ The obligation to notify customers when they reach 80% of their limit and the implementation of cut-off mechanism requires real time monitoring, automatic customer interaction and a very complex IT systems linking the billing and CRM system and the network. The complexity is compounded by the fact that this involves multiple networks because the user is roaming. The development of these systems would require both significant resources, but as importantly they would carry significant opportunity costs. Several Telefónica operating companies considered developing such solutions in the past for the national market but were forced to cease to progress them

because of the high complexity. We are concerned that the ERG underestimates these real opportunity costs.

- Telefónica is committed to comply with the requirements of the regulation but we would like to point out that the roaming Regulation requirements are still partially unclear both regarding the practical implementation and technical requirements with the result that customer experience would be negatively affected. Telefónica therefore believes that the timeline March 1st is very tough. The interim solution specified for that date will make no technical difference to what needs to be delivered on July 1st but could in fact jeopardise its achievement for some businesses. Telefónica would therefore prefer July 1st to be the single implementation date, rather than a phased approach.