

## **ROAMING REGULATION - CHOICE OF DECOUPLING METHOD**

***BEREC opinion on article 5 implementing act***

**27 September 2012**

## Introduction

This document includes BEREC's opinion on Commission Implementing Acts, which will be produced by the European Commission at January, 1<sup>st</sup> 2013 at the latest according to the new roaming regulation. These implementing acts will set detailed rules on the information obligations laid down in Article 4(4) and on a technical solution for the implementation of the separate sale of regulated retail roaming services. The aim of the implementing acts is to ensure consistent and simultaneous implementation across the Union of the separate sale of regulated retail roaming services. Additionally, BEREC will produce in the next months a document on guidelines for the application of Article 5.

The points included in this document are conclusions drawn in the document on the choice of the decoupling method through public consultation carried out by BEREC, as well as stakeholder input.

The document is divided into two parts: provisions that in BEREC view should be included in the implementing act, and recommendations for the EC to facilitate the process of implementing decoupling provisions with an aim to a smooth and successful implementation in July, 2014.

## PART 1: PROVISIONS TO BE INCLUDED IN THE IMPLEMENTING ACT

### Selection of the decoupling method

BEREC considers that the implementing act must include specific obligations for domestic providers for two methods of decoupling: LBO and Single IMSI.

Dual IMSI and Single IMSI+ are discarded as primary methods of decoupling for July 2014 to be supported by obligations in the implementing acts. However, in the review of 2016, BEREC will check technical advances on these methods and reprogrammable SIMs (virtual IMSI), as well as the need to review decoupling obligations. This means that the implementing acts should not limit options for reviewing decoupling obligations in 2016.

### Time for implementation of the decoupling method

The implementation of the decoupling method by domestic providers should be available several months before commercial launching in July 2014 to allow for testing and preparation of commercial launching in the summer of 2014. A pre-production of a commercial platform could be enough to allow ARPs and domestic providers to test interfaces and functionality before commercial operation.

Considering that the review will take place in 2016, it is important to assure that the 2014 summer period will be effective to start offering alternative roaming services, as summer is the key season for the international roaming market in Europe.

### Standardization

The implementing acts should state that interfaces for decoupling should be based in common use standards from 3GPP and other organizations as ETSI & OMA. Any, GSMA reference documents and database procedures applied by MNOs for roaming purposes may be applied, provided that they are freely, publicly available and not against any provision on the regulation and implementing act.

### **Authorisation regime for ARPs**

As doubts were raised in one of the responses, it is worth to put clear in the implementing act that the authorisation regime for the ARP is not different than it is for any other ECS service, and no “EU licence” is required. ARPs should follow any notification procedures defined by each Member State where they are offering the service to EU citizens.

### **ARP services used by customers**

In order to avoid future disputes and problems, it makes sense to state that a customer can use the services of just one ARP at the same time. Otherwise, problems can be raised if two ARPs are trying to decouple a customer at the same time, as the decoupling method does not support simultaneous decoupling by two or more ARPs. This does not apply for LBO, as customers may contract LBO use in different countries or from different providers at any time, even if they are using the service of an ARP supported by the single IMSI model.

### **On the implementation of LBO**

#### **Obligations for domestic providers**

All domestic providers must add the universal APN enabling the VPAA flag (Visited PLMN Address Allowed) in their HLR. This universal APN must be supported by the domestic provider and cannot be used by the domestic provider to supply traditional roaming data services while the customer is abroad.

Domestic providers are not generally allowed to bar nor block LBO providers. This includes both, not barring LBO customers or disrupting active LBO services, nor impeding LBO contracting in real time for any potential LBO customer. Consumers shall be free to contract and use services from any LBO provider without any restrictions.

Exceptions should be considered entitling domestic providers to bar LBO providers due to non fulfilment of technical conditions, non payment of services or other justified reasons as considered in BEREC guidelines on Article 3 of the roaming regulation.

The review on steering issues raised during consultation led also to the conclusion providers may supply end-user equipment like smart phones or dongles with adapted software to the specifications of the supplying provider in such a way it impedes manual network selection when roaming. This functionality is needed to allow for selection of the provider for local data use. Domestic providers should allow end users to enable manual selection of networks while roaming abroad.

Domestic providers must be obliged to conclude a roaming agreement with visited network wanting to provide LBO services. The roaming agreement will follow the conditions included in the reference offer of the LBO provider, and exceptions for refusal of request by the domestic provider defined in BEREC guidelines on Article 3 of the roaming regulation apply also in this case.

Although it is implicit in the regulation, it should be made clear that when consumers use LBO, domestic providers must continue to provide voice, SMS and voice mail service, as well as any other voice service provided when the consumer is roaming.

Obligations for LBO service provider

It is important to include the obligation to include APNs restoration facilities in the apps to be provided to customers for LBO use, as well as to inform customers about how to restore these APNs manually. To the best of their knowledge, they will facilitate automatic APNs restoration when consumers finish using LBO and want to return to traditional roaming use. The configuration and the restoration of the Universal APN requires a specific obligation.

The Implementing act should state the right for the customer to quit LBO at any time and return to traditional roaming. LBO providers should guarantee access to transparent, up to date information on applicable prices and tariffs, point of contact in case of problems, and on standard terms and conditions, in respect of access to, use and terminate LBO services. Customer must also be informed on services that may not be available under LBO use such as VPNs or proprietary services like Blackberry supported in the domestic network.

LBO providers must implement their own differentiated bill shock measures for expenditure on data services provided by LBO providers. Also, LBO providers are responsible to bill LBO customers on the data services they are provided and TAP records on LBO services do not have to be sent to the domestic provider.

At request of a domestic provider in order to perform selective barring for non-LBO customers without blocking LBO contracting, improve user experience, suspending steering or updating the SIM Card, the LBO provider will send in real time a notification when a customer contracts for LBO use and (when known)- when the customer stops using LBO. It is important to note that selective barring should not block, disrupt or allow any potential consumer to contract and use LBO. Additionally, the use of selective barring must not imply a preregistration of LBO customers prior to contracting LBO.

BEREC considers that there is no legal justification to support an obligation for LBO providers to offer any other stakeholder decoupling functionalities for LBO use (as for example, MVNOs using LBO supported by the visited network). Of course, commercial agreements can be reached among stakeholders to be set freely by them.

Rights to publicise LBO services by the LBO provider

GSMA procedures in BA.47 states that the wholesale provider must refrain for publicizing its own services when acting as a visited network. The implementing act should make clear the right of the LBO provider to carry out marketing activities to let potential customers know about their services in the same way as any other mobile service provider. This would avoid any concern by potential ARP that are members of the GSMA regarding their right to market their service.

On Dual IMSI

BEREC confirms its initial view on not supporting Dual IMSI via obligations for domestic operators. As a consequence, no provisions for dual IMSI use should be included in the implementing acts.

BEREC does not consider that an obligation to use dual IMSI cards should be imposed.

In any case, BEREC is of the opinion that dual IMSI and reprogrammable SIMs (Virtual IMSI) may evolve technically in the next years and it worth monitor and reassess dual IMSI in the review of 2016.

### On Single IMSI

BEREC confirms that single IMSI is as now the most adequate method for decoupling and it should be supported in the implementing act by obligations to be imposed on the domestic providers.

The assessment for the implementation of single IMSI for domestic providers hosting MVNOs turns out to be more complex than the initial BEREC assessment showed (but still lower than for domestic providers not supporting MVNOs), but in any case, single IMSI is still the most adequate decoupling method to be supported in the regulation.

The obligations to be imposed for domestic providers should be based in the ones labelled as “compulsory” in section 7.5 of the annex 2 (technical analysis) of the document on the choice of decoupling methods.

Domestic providers shall supply free of charge (according to the regulation) a minimum set of functionalities for decoupling, that will consist on:

- Online charging systems interconnection to allow ARPs to manage prepaid customers using their own on-line charging system. This interface will be provided by using standard real time protocols;
- Support for customer provision and basic support for ARPs billing (TAPs and domestic CDRs) both on prepaid and postpaid;
- Basic support for allowing the ARP to implement the bill shock measure.

It should be clear in the implementing act that domestic providers are not obliged to offer to the ARP more services than they have for their own use (for example, if the domestic provider does not have a prepaid platform, the domestic provider is not obliged to provide support for prepaid services by the ARP). Additionally, the decoupling service provided should be demonstrably such that an ARP would be practically and economically able to offer its end users a specification and standard of service at least as good as those offered to end users of the host MNO

Guidelines on article 3 on non-discrimination are applicable for these purposes.

BEREC is of the opinion that a fair and reasonable charge for termination of incoming calls may be levied by the domestic provider to recover the costs to the MNO arising from termination of calls received by customers of the ARP. BEREC Guidelines on Article 3 applies also in this case.

The regulation does not explicitly require domestic operators to allow alternative roaming operators providing access for the purposes of retail provision of unregulated services (in particular roaming voice calls and SMS messages where either sender or recipient is outside the EEA). However, BEREC considers that the great majority of customers would find it confusing and inconvenient to have one retail supplier of intra-EU roaming services and another supplier of extra-EEA services. For that reason, BEREC takes the view that access for decouplers must include extra-EEA roaming services applying fair and reasonable tariffs.

**On Single IMSI+**

BEREC confirms its initial view on not imposing obligations on single IMSI+ nor on supporting discount flows among visited providers, ARPs and domestic providers.

**On Number Portability**

Considering that it would be very complex to maintain ARPs services in all case when consumers change their domestic provider and that it would imply relevant changes in the number portability processes, it should be made clear in the ARP contract that customers may lose their alternative roaming service, and that once the customer changes his domestic provider, there are no obligations for the old domestic provider to support any service provided by the ARP for that customer.

**On fraud management**

Guidelines on fraud management and refusal of requests will be also applicable for the relation between the ARP and the domestic provider for decoupling purposes under Article 5.

**On interception and data retention**

It should be made clear in the implementing acts that the ARP is responsible of the interception and data retention measures imposed by the national legislation in the country where the ARP is selling its services.

**PART 2: RECOMMENDATIONS TO THE EC TO FACILITATE ART 4 AND 5 IMPLEMENTATION****On openness and functionality in terminal equipments**

Terminal equipment openness and ability for apps to be provided by LBO operators to manage APNs (both adapt to use of the universal APN and restoring domestic operators APNs), as well as monitoring of the network being used (even consumer selection of the network done by the app) are very relevant issues to make for easy use of LBO for customers. Additionally, terminals should not override consumer network selection or at least inform customers about it. BEREC has no powers on terminal standardisation, but will call on the Commission to closely follow terminals evolution and address any issue facilitating a good consumer experience, a key issue for LBO success.

**On the definition of the technical interfaces for decoupling**

BEREC considers that a detailed specification of the interfaces between ARPs (including LBO providers) and domestic providers is needed in order to assure a smooth common implementation of the decoupling measure along the EU, lower costs for all players, and at the end of the day, benefiting also consumers in the long term.

BEREC is not in the position to draw a proposal on this detail specification of interfaces, as standardisation is out of the scope of BEREC powers and deep technical knowledge on functionalities and interfaces in operating support systems should be provided by operators and systems providers.

The proposal from BEREC in this line is to constitute as soon as possible standardization activity with stakeholders (mainly, but not only mobile services operators) monitored by the EC where BEREC can collaborate supporting the EC and taking inputs for BEREC guidelines on Article 5.

### **PART 3: INITIAL WORK ON GUIDELINES FOR ART 5**

BEREC is also starting to work on the elaboration of BEREC guidelines for Articles 4 and 5. These guidelines will include issues in this document that will not be finally included in the implementing act, as well as an adaptation of those guidelines for article 3 applying also to Article 5, as:

- Granting or refusal of request for ARP;
- Information required from ARP (commitments on volume, traffic forecasts,... etc);
- Set of services that has to be provided by the MNO to the ARP (essential requirements have to be free of charge);
- Handling of unregulated roaming services in the case of LBO and Single-IMSI;
- Non-discrimination rules and agreements on performance;
- Fraud prevention procedures;
- Contract duration and termination of a contract;
- Negotiation and implementation time;
- Dispute resolution;

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