

## Draft BEREC guidelines on Roaming Regulation

### Comments of Vodafone

#### Guideline

- 7 Parties should be required to take all reasonable steps to avoid fraud. Parties cannot be expected to take actions in areas which are, for example, beyond their control.

Suggested text:

*Both parties should take all reasonable steps to avoid fraud....*

- 8 The reference to 'special services' is confusing. The Regulation refers to 'value-added services' (recital 43) and guideline 42 to 'special rate services', but nowhere to 'special services', so far as we can see.

This is too definitive when there are an enormous variety of different M2M models and cases. We accept that some forms of M2M service may be subject to the separation provisions, but we think it would be disproportionate in others. Some M2M services could not be supplied at all if decoupling were required, and many do not involve domestic services from which they could be decoupled. BEREC will need to develop more detailed views in this area as specific cases develop, but the possibility that some M2M services are excluded from separation obligations should be recognised here.

Suggested text:

*Decoupling may apply to M2M services, depending upon the technical and legal characteristics of the M2M services in question. Price information and cut-off limits do not apply to M2M services.*

- 9 The reference to the roaming service 'automatically' rolling back to the default roaming mode is misleading if this implies no manual intervention by the customer. Under current technical conditions, we think the customer will always have to manually reconfigure the settings on the device (although MNOs can be expected to make this as easy as possible to do).

Suggested text:

*When a customer finishes using local data roaming services...or has given explicit consent to terminate the usage of local data services, he must be*

*able to return to the default mode/environment without difficulty. In particular, ARPs do nothing that might not prevent roaming customers from returning to the default roaming mode.*

- 12 It should be made clear that there is no obligation upon either EU LBOs or non-EU MNOs to allow use of the Universal APN

Suggested text:

*There is no provision in the Regulation to prevent non EEA customers from using the Universal APN in EEA countries, but no obligation on EU LBO providers or EU MNOs to enable them to do so.*

- 15 This guideline seems intended to address circumstances in which access to an LBO provider may be barred in relation to all potential users because there is a breakdown in the wholesale relationship between LBO provider and donor MNO. We have several comments.

First, these provisions should apply to both relations with LBO providers and Single IMSI ARPs. They should therefore appear in the General Guidelines (and be amended to reflect their broader applicability)

Second, there are also circumstances under which a donor MNO will need to bar access for some individual users, whilst allowing access for others, because of a breakdown in the retail relationship between the donor MNO and their retail customer. The guidelines should confirm this, and outline the conditions under which such barring will be allowed. We consider that the donor MNO could bar access in circumstances of suspected fraud, non-payment of services or other conditions under which the donor MNO would normally bar access to its own roaming services as well.

Suggested text (should be a new Guideline 8, to appear after current guideline 7):

*Home networks are generally not allowed to bar or block access to ARPs. This includes not barring (on either a temporary or permanent, selective or universal basis), not disrupting the ongoing provision of service and not impeding the contracting of services between customers or potential customers and any LBO or Single IMSI service provider.*

*In exceptional circumstances home networks may bar or block, on a temporary or permanent basis, so as to prevent individual retail customers from accessing individual ARPs. These circumstances may include non-*

*fulfilment of reasonable technical conditions, non-payment of services or other objectively justified reasons.*

*Home networks should generally allow customers to access services offered by ARPs at all times. In exceptional circumstances, home networks may bar or block, on a temporary or permanent basis, so as to prevent individual retail customers from accessing any ARP. Home networks must do this only if they also and at the same time bar access to roaming services provided by the home network itself. These circumstances may include non-payment for services, risk or suspicion of fraud or other objectively justified reasons. Home networks must not selectively bar or block access for particular customers only to particular ARPs but not others.*

- 16 There are certain circumstances under which it is not technically possible for the donor MNO to disable steering and so comply with the guideline as drafted. These include when the customer has a non-OTA SIM, SIMs that cannot refresh without the device first being powered down and up again, or devices which may override the updated SIM commands. The guidelines should recognise this.

Suggested text:

*To the extent technically possible, traffic steering mechanisms should not prevent..... Additionally, and to the extent technically possible, customers who have chosen to use....*

- 18 The title is misleading here— reconfiguration is not ‘automatic’ (see Guideline 9 above). Suggest ‘*Reconfiguration of the terminal*’.

Donor roaming providers should also have the right to reconfigure if the customer moves to a non-EEA territory.

Suggested text:

*....once the terminal is connected to the access network of the donor roaming provider or to any other network in a non-EEA territory’*

- 19 This refers to the obligations only of providers operating a ‘terrestrial public mobile communication network’ to support LBO services whilst Guideline 32 makes it clear that MVNOs must also support Single IMSI (or must ensure that their host MNO does so). However, some MVNOs may conclude roaming agreements directly with visited networks and Guideline 19 should therefore be amended to recognise this and to conform with Guideline 32:

Suggested text:

*In order to allow their customers to use local data roaming services in the visited country, domestic providers must generally conclude a roaming agreement with the visited network that wants to provide this service....*

*If the domestic provider is an MVNO and is technically unable, or does not otherwise wish, to itself conclude a roaming agreement with the visited network in question, then it must ensure that the host MNO does so on its behalf. The host MNO shall meet all reasonable requests allow allow MVNO customers to use local data roaming services in the visited country and may levy charges that are fair and reasonable (unless otherwise addressed by the Regulation) for doing so.*

- 25 It should be clear that existing customer consents for non-regulated tariffs will be sufficient for the customer to default back to that tariff. If the previous tariff no longer exists or in other circumstances, the customer would fall back to the eurotariff instead.

Suggested text:

*....the customer falls automatically back to either the domestic provider's previous roaming tariffs or the eurotariff.*

- 26 We do not see the purpose of this guideline and believe it should be removed.

- 32 We do not agree that the obligation to resell roaming access to ARPs simply passes to the host MNO if the MVNO or reseller is technically unable to fulfil it. This is not what the Regulation says in our view. Rather, the obligation should remain with the MVNO (with whom the ARP should contract) and the MVNO should then procure whatever functionalities are required from the host MNO to enable the MVNO to fulfil its obligations to the ARP. The host MNO should have an obligation to the MVNO to do this, and should be able to levy fair and reasonable charges in doing so.

Suggested text:

*If the domestic provider requested to resell roaming access is technically unable to offer the required functionalities, it shall procure such functionalities from those able to do so, generally the host MNO. Host MNOs and other service providers shall meet all reasonable requests for the*

*provision of such functionalities and may levy charges that are fair and reasonable (unless otherwise addressed by the Regulation) for doing so.*

37 We do not understand what the second bullet ‘support for customer provision and basic support for ARPs billing information both on prepaid and postpaid’ means, particularly in view of Guideline 43 (with which we also have concerns). Please clarify.

38 All domestic providers must supply wholesale regulated roaming services to ARPs, although in some cases MVNOs and resellers will procure these from host MNOs (see comments on Guidelines 19 and 32).

Suggested text:

*Domestic providers shall supply all wholesale regulated roaming services for the ARP...*

41 This reflects a reasonable outcome for customers. As such, it should apply to all arrangements with ARPs, and not to some but not others. Allowing the ARP to instead specify how extra-EEA services will be configured adds unjustified complexity for the domestic provider and is not in the interests of the customer.

Suggested text:

*Access for decoupled service must include extra-EEA roaming services for Mobile originated calls from EEA to outside EEA and Mobile terminated calls from outside the EEA to the EEA. These extra-EEA roaming services are to be....*

42 This should be rephrased to clarify that the wholesale cap only applies to the conveyance element of the ‘value added service’ (as per recital 43) and that the domestic provider may levy an additional charge to recover additional wholesale costs which it will incur in relation to the ‘value added’ element of the service (for which it will be charged by its wholesale provider). The recovery of reasonable charges for ‘value added services’ is contemplated in recital 29 of the Regulation.

Suggested text:

*Value added services*

*The conveyance of value added services must be provided inside the EEA by domestic providers on request of the ARP at the wholesale caps specified in the Regulation. Domestic providers may then pay an additional 'non-conveyance' charge to their wholesale roaming provider, which they may recover from the ARP on a fair and reasonable basis.*

47

We do not understand how SLAs can be both 'at least as good as those normally achieved by the MNO' and 'consistent with best industry practice' at the same time (unless the MNO is also best in class). We suggest delete second requirement – non-discrimination is sufficient and justified.

Suggested text:

*The specified minimum service levels should be at least as good as those normally achieved by the MNO in respect of services provided to itself.*

We believe another (self-explanatory) guideline for the LBO provider (section 3.3) is required as follows:

*Any ARP proposing to provide local data services must inform their providers of regulated wholesale roaming services before they commence operations. Arrangements should be made between the parties for the referral of customer enquiries to each other and other matters which may require co-ordination.*

Vodafone

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