

## **Problems with VoIP and Convergent Services**

The way the regulatory framework is being implemented by member states, often hinders the development of convergent technologies and VoIP-services. On the other hand, incumbents and established alternative operators successfully prevent new convergent and VoIP service providers from entering the market.

For example, VoIP operators have problems getting normal landline phone numbers. The relevant authorities in some countries force them to use special phone numbers. This is in turn exploited by established operators (especially mobile operators), who charge prohibitive fees for calls to these numbers in order to establish artificial market entrance barriers. (Often higher than calls to "value added service" numbers!) What's more, such VoIP/ENUM/Convergence/Nomadic-numbers are often not reachable from several networks, national and international. As the VoIP-operators are often very small start ups, they don't have the legal and financial (man)power, to fight for their right for interconnection.

Some operators don't allow their customers to use VoIP-services at all (for example some German mobile network operators have such clauses in their UMTS contracts). Other broadband providers might choose to prevent the use of third party VoIP services by technical means, for example by "bandwidth shaping".

Plus: Some NRAs fight the establishment of new convergent services, where a mobile phone user can be reached through a normal landline phone number without extra cost to either party. E.g. in Austria MNOs will not be allowed to offer free call forwarding from landline phones to mobile phones.

All these measures taken by regulators or operators have a detrimental effect on competition as well as on the development of new services and thus should be banned.

## **Problems with MNP**

Mobile Number Portability is implemented very differently throughout the EU. Often pricing transparency is missing, sometimes MNOs are allowed to charge excessive fees for exporting numbers (for example in Germany).

The relevant obligations in the legal framework should be more detailed.

## **Huge Problems with "Value Added Services"**

VAS is a fertile ground for fraudulent practices. Parallel to the reducing of Diallers, "reverse charged" services have become more widespread. European Citizens are bombarded by thousands of unsolicited, often embarrassing messages every day – and they are charged outrageous fees for these unwanted messages!

The senders of these messages know that many end users will not notice this on their bill or will fail to get their money back.

The EU-commission must ban all reverse charging within one network! (e.g. passive roaming fees should be allowed). R-calls should be allowed if the called party is first informed about

who is calling and can refuse to take the call after being informed properly, without running into any costs.

### **Excessive Roaming Fees**

Neither the commission nor the ERG or the NRAs have succeeded in tackling the excessive roaming charges levied on users across Europe. On the contrary, roaming fees have risen, sometimes multiplied. Price hikes usually are dressed up as "reform" towards "transparent pricing".

In parallel to that, too long "minimum durations" of contracts with mobile operators usually make it impossible to take advantage of offers by national network operators. Even citizens who stay in another EU country for several weeks or months can only choose between excessive roaming charges or similarly unattractive prepaid services. In some countries, MNOs even prevent foreign EU-citizens to use prepaid services by demanding proof of a national address or even a national registration or national identity documents.

This practice is discriminating EU-citizens against nationals (and detrimental to competition). The framework should be amended in a way that prevents such discriminatory practices.

The Commission should amend the framework and take tackling excessive roaming fees in their own hand. A possible regulation would state that wholesale roaming prices must not be higher than termination/origination fees on the relevant network, some markups to cover the special mediating efforts could be granted.

### **Definition of relevant markets: SMS, MNP**

As services like SMS (and EMS/MMS) have become very important to users, they should be included in the mobile market definitions or become their own markets. By abusing their termination "monopoly", mobile operators build artificial market entry barriers for service providers, be it wholesale or retail. Termination fees are usually multiples of the relevant costs. SMS are crucial services for the disabled (deaf, hard of hearing).

As long as the market definitions in the legal framework do not include SMS, NRAs are not able or reluctant to deal with these problems.

Similarly, the export of phone numbers (MNP) should be defined as markets (mobile, fixed). Whoever is one's current operator, has a monopoly on the export of the used number. As mentioned above, this monopolies are sometimes abused.

### **Customer Protection from wrong bills**

Operators who charge customers fees without a legal basis are often reluctant to deal with their customer's protest. For a single customer it is often not possible to have his right enforced. If he would chargeback the illegally collected fees, the operator would a) shut down the service/active calling and b) levy the user with relatively high fees (fines). The arbitration boards, understandably, usually have a minimum cession amount.

A more consumer friendly process needs to be found, e. g. where a customer can have disputed fees placed with a custodian, until the dispute is resolved. By establishing a custodian neither party would profit from malice behaviour.

### **With regard to disabled users**

Very important is the establishment of a barrier free service directory. Often, online directory services are not barrier free, whilst voice directory services are a) very expensive and b) useless to the deaf and those hard of hearing. Printed directories are (if at all) at hand only for a limited geographic area, not up to date and useless to the blind.

A barrier free, up to date online directory that includes data from all operators should become a mandatory Universal Service.

For SMS see above "Definition of relevant markets".

### **On Privacy and security**

The Data Retention Guideline is an adequate framework to reduce and abolish consumer trust and confidence in the information society and is very bad for the development of a competitive market.

The legal framework for telecommunications must give operators the right to receive reimbursements from the relevant member state for the extra cost they have to bear because of Data Retention regulations.

The legal framework for telecommunications should forbid operators to use any data collected that is not needed for billing purposes. The data should only be provided to relevant authorities on legally proper request, but not used internally. If enforced, this may rescue some consumer trust and confidence.

### **Problems with mobile network rollout and HF-emissions**

The regulatory framework should enact EU-wide limits on HF emissions (the WHO recommendation would be fine), while giving mobile networks better legal positions in respect to proceedings necessary to receive permissions to establish new transmitter sites.

Currently, mobile network operators are sometimes not allowed to establish transmission sites they are required to establish because of license constraints. Some local authorities try to enact ridiculously low emission "standards", whilst others invent all sorts of taxes.

### **Spam**

Unsolicited e-mails, SMS, etc. are a huge problem. Persecution of illegal spammers is lax at best, usually non-existent across borders. This problem must be tackled on an EU-level.

Affected users who have complained should be allowed to join the following legal proceedings and to take action against dormant authorities. Only when the victims can legally force authorities to take action, the authorities will receive the necessary manpower and facilities to persecute spammers. Currently, those victims who file an official complaint are not even informed if the spammer has been fined. As a result, very few complaints are filed.

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