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Miapetra Kumpula-Natri, MEP
Euroopan parlamentin raportööri 2016/0185(COD)

Telemarkkinasetuksen 531/2012 muuttaminen verkkovierailumaksujen tukkumarkkinoiden hintojen osalta

Tausta: Roam Like At Home (RLAH) eli roaming maksujen poistaminen
Jotta viime kesänä päätetty kuluttajien roaming maksujen saadaan toteutettua, jäi ratkaistavaksi kaksi tuolloin vielä auki jäänyttä kysymystä. Tukkumarkkinoiden hintakatot, josta komissio antoi asetusesityksensä (ASIAKIRJANUMERO) viime heinäkuussa sekä Kohtuukäytön määritelmä (Fair Use Policy FUP) ja poikkeusmahdollisuudet (sustainability clause), joista komissio antoi toimeenpanoesitysluonnoksensa syyskuussa. Ensimmäisen esityksen komissio veti takaisin (90 vrk/v korkeintaan 30 vrk kerrallaan) ja uusi on nyt säätelyviranomaisten kattojärjestön BERECin ja jäsenmaiden lausunnolla. Siinä keskitytään estämään väärinkäytökset sim-kortin hankinnassa ilman oikeaa sidettä operaattorin kotimaahan, ja jätetään operaattorin ja hakemuksesta kansallisen säätelyviranomaisen (Suomessa Viestintävirasto) arvioitavaksi, millainen kuluttajan roamingin käyttö olisi kohtuutonta. Asetusesitys ei sisällä mitään ennalta asetettuja käyttörajoja ajassa tai määrässä. Toimeenpanoesitykseen parlamentilla ei ole mahdollisuus tehdä muutoksia, mutta siitä on käsitelty niin ITRE valiokunnassa kuin salikeskustelussa 4.10.

Komission ehdotukset uusiksi tukkutason hintakatoiksi
Komissio ehdottaa muutoksia verkkovierailuasetuksen 7, 9 ja 12 artikloihin, joissa vahvistetaan keskimääräiset tukkutason verkkovierailuhintakatot puheluille, tekstiviesteille ja datansiirrolle eli sille mitä vierailtu operaattori veloittaa vierailevalta operaattorilta.
Komissio ehdottaa asetuksessaan mobiilipuheluiden rajan laskemista voimassa olevasta tukkuhintakatosta 0,05 euroa minuutilta 0,04 euroon
minuutilta. Verkkovierailutekstiviestistä komissio laskee tukkuhintakattoa 0,02 eurosta/SMS 0,01 euroon/SMS. Komissio laskisi verkkovierailudatapalvelujen tukkuhintakattoa 0,0085 euroon (0,85 senttiin) siirrettyä datamegatavua kohti nykyisestä 0,05 eurosta. Tukkuhintakatot astuisivat voimaan 15.6.2017 ja pysyisivät samoina 30.päivään kesäkuuta 2022 saakka.

Euroopan parlamentin tilannekatsaus
Euroopan parlamentissa komission ehdotusta käsittelee ITRE-valiokunta. Valmistelen ja koordinoin parlamentin kannan ja lopulta edustan parlamenttia jatkoneuvotteluiswq. Esittelen raporttiluonnokseni ensi viikon keskiviikkona 13.10. teollisuusvaliokunnalle (ITRE). Muiden parlamentaarikkojen muutosehdotukset on jätettävä 14.10. mennessä. Parlamentin neuvottelukanta äänestetään ITRE-valiokunnassa 29.11.
Joulukuun aikana alkavat parlamentin, komission ja jäsenmaiden väliset neuvottelut (trilogi) asetuksen lopullisesta muodosta. Saavutetusta kompromissista äänestetään parlamentissa alkukevään aikana, jotta asetus astuu voimaan 15.6.2017 mennessä.

Puhelujen hintakatoksi esitän 0,03 €/min, joka on komission esittämää hintaa alhaisempi. Tekstiviestin tulevaisuus ei ole juurikaan kiinnostava uudempien menetelmien suosion kasvun ohittaessa SMS käytön.

Raportissani keskityn datan hintakattoon. Esitän siirtymistä megatavuista kansantajuisempiin gigatavuihin (1024 MB) ja ehdotan komissiota alhaisempaa tukkuhintakattoa ja vuosittain alenevaa porrastusta. Kahden ensimmäisen vuoden jälkeen tulisi kuitenkin tehdä tarkastelu, jossa voidaan arvioida niin asetettuja hintatasoja, kuin järjestelmän vaikutusta markkinoihin (esim. onko monet operaattorit siirtyneet tarjoamaan vain kotimaisia palveluita tai joutuneet turvautumaan turvamekanismiin ja anomaan vapautusta maksuttoman roamingin tarjoamisesta). Vuonna 2017 kesästä tukkuhintakaton tulisi olla 5€/GB, jonka jälkeen se laskisi vuosittain (2018 4€/GB, 2019 3€/GB, 2020 2€/GB ja 2021 1€/GB).

Tilanne neuvostossa
Jäsenmaat ovat jumiutuneet neuvotteluissaan kahden vastakkaisen ryhmän molempien muodostassa etenemisen estävän vähemmistön. Toinen ajaa korkeampaa verkkovierailudatapalvelujen hintakattoa ja toinen komission esitystä alhaisempia hintakattoja. Näkökulmat heijastelevat jäsenmaan pääoperaattorien näkökulmia sekä verkkovierailumääriä, eli ovatko operaattorit enemmän lähettäviä kuin vastaanottavia (out-bound, in-bound).

Eturyhmien näkemykset ja kilpailu
Suuret eurooppalaiset operaattorit ajavat komission ehdotusta korkeampia hintakattoja datalle. Pienempien operaattorien ja virtuaalioperaattorien kantana on verkkovierailumaksujen alentaminen.

Kilpailun edellytyksiä on edistettävä eurooppalaisilla markkinoilla investointien ja kuluttajan valinnanvapauden edistämiseksi. Korkea hintakatto antaa suurille operaattoreille etulyöntiaseman markkinoilla ja tukee konsolidaatiota, alhainen hintakatto edistää kilpailua ja on kuluttajaorganisaatioiden kannattama suunta.

Datan kulutus, kustannukset ja kuluttajahinnat
Datan kulutus eurooppalaisilla markkinoilla kasvaa räjähdysmäisesti, jopa 50 prosenttia vuosittain vaihdellen kymmenistä 174 prosenttiin (v2014-2015) (lähde: teffiency.com). Kysynnän kasvaessa operaattorit ovat jatkuvasti investoineet uuteen kapasiteettiin, jolloin yksikkökustannus/GB on laskenut. Tämä on heijastunut kuluttajamarkkinoille pienenevänä lovena kuluttajien lompakossa. Sama trendi jatkuu myös tulevaisuudessa - arvioin komission 40% arvion liian varovaiseksi - ja kustannusten lasku onkin tärkein peruste kattohinnan vuosittaiselle laskemiselle.

Suomessa mobiilidatan käyttö on maailman korkeinta ja kustannus/GB on Euroopan alhaisin. Poikkeuksellinen määrällisesti rajoittamattoman datan malli asettaa erityishaasteen datan roamingille. Se tulee voida ratkaista FUP yhteydessä kuluttajan roamingvapauden tavoite mielessä pitäen.

Jk. Raporttiehdotukseni jätin parlamentille englanniksi, käännökset kaikille virallisille kielille eivät ole vielä valmistuneet. Suomenkielinenkin versio tulee, joskus:) Ohessa liittenä esitykseni englanniksi.

European Parliament
2014-2019

Committee on Industry, Research and Energy

2016/0185(COD)

16.9.2016

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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 531/2012 as regards rules for wholesale roaming markets
(COM(2016)0399 – C8-0219/2016 – 2016/0185(COD))

Committee on Industry, Research and Energy

Rapporteur: Miapetra Kumpula-Natri

Symbols for procedures

*	Consultation procedure
***	Consent procedure
***I	Ordinary legislative procedure (first reading)
***II	Ordinary legislative procedure (second reading)
***III	Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▌ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.
By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 531/2012 as regards rules for wholesale roaming markets (COM(2016)0399 – C8-0219/2016 – 2016/0185(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2016)0399),

– having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0219/2016),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the opinion of the European and Social Committee of ...[1],

– having regard to the opinion of the Committee of the Regions ...[2],

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the report of the Committee on Industry, Research and Energy (A8-0000/2016),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation
Recital 16

Text proposed by the Commission	*Amendment*
(16) In setting the maximum wholesale charge for regulated data roaming services, all the access components needed to enable the provision of roaming services have	(16) ***Data usage is growing rapidly in the Union and across the world. The introduction of RLAH from 15 June 2017 will contribute to that growth in the***

[1] OJ C xx of ..., p. xx
[2] OJ C xx of ..., p. xx

been taken into account, including the transit costs of delivering data traffic to an exchange point identified by the home network operator.	***roaming context too, leading to the cost per unit of data being driven down significantly. In order to take account of the increase in data usage and reduction in cost per unit of data, the maximum wholesale charge for regulated data roaming services should decrease each year.*** In setting the maximum wholesale charge for regulated data roaming services, all the access components needed to enable the provision of roaming services have been taken into account, including the transit costs of delivering data traffic to an exchange point identified by the home network operator.

Or. en

Amendment 2

Proposal for a regulation
Recital 21

Text proposed by the Commission	*Amendment*
(21) It is necessary to monitor and regularly review the functioning of wholesale roaming markets and their interrelationship with the retail roaming market, taking into account competitive and technological developments and traffic flows. In order to properly assess how roaming markets will adapt to RLAH rules, sufficient data should be gathered on functioning of these markets after the implementation of these rules.	(21) It is necessary to monitor and regularly review the functioning of wholesale roaming markets and their interrelationship with the retail roaming market, taking into account competitive and technological developments and traffic flows. ***In particular, in its biennial reports the Commission should assess whether RLAH has any impact on the range of tariff plans available on the retail market. This should include, on the one hand, an assessment of any emergence of tariff plans that include only domestic services and exclude roaming services altogether, thus undermining the very objective of RLAH and, on the other, an assessment of any reduction in the availability of flat-rate tariff plans, which could also represent a loss for consumers and undermine the objectives of the Digital Single Market. Also, as in its Report on the Review of the Wholesale Roaming***

Market of 15 June 2016, the Commission's biennial reports should assess the ability of visited network operators to recover all costs of providing regulated wholesale roaming services. In addition, the Commission should assess the ability of home network operators to recover their costs of providing regulated roaming services from their revenues from the provision of such services, and the extent to which retail roaming surcharges have been authorised by national regulatory authorities under the sustainability mechanism. In order to properly assess how roaming markets will adapt to RLAH rules, sufficient data should be gathered on functioning of these markets after the implementation of these rules.

Or. en

Amendment 3

Proposal for a regulation
Article 1 –point 2
Regulation (EU) No 531/2012
Article 7 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The average wholesale charge that the visited network operator may levy on the roaming provider for the provision of a regulated roaming call originating on that visited network, inclusive, among others, of origination, transit and termination costs, shall not exceed a safeguard limit of EUR ***0.04*** per minute as of 15 June 2017 and shall, without prejudice to Article 19, remain at EUR ***0.04*** until 30 June 2022	1. The average wholesale charge that the visited network operator may levy on the roaming provider for the provision of a regulated roaming call originating on that visited network, inclusive, among others, of origination, transit and termination costs, shall not exceed a safeguard limit of EUR ***0,03*** per minute as of 15 June 2017 and shall, without prejudice to Article 19, remain at EUR ***0,03*** until 30 June 2022

Or. en

Amendment 4

Proposal for a regulation
Article 1 –point 4
Regulation (EU) No 531/2012
Article 12 – paragraph 1

Text proposed by the Commission	*Amendment*
1. With effect from 15 June 2017, the average wholesale charge that the visited network operator may levy on the roaming provider for the provision of regulated data roaming services by means of that visited network shall not exceed a safeguard limit of EUR ***0.0085 per megabyte*** of data transmitted and shall, without prejudice to Article 19, remain at EUR ***0.0085 per megabyte*** of data transmitted until 30 June 2022.	1. With effect from 15 June 2017, the average wholesale charge that the visited network operator may levy on the roaming provider for the provision of regulated data roaming services by means of that visited network shall not exceed a safeguard limit of EUR ***5 per gigabyte of data transmitted. The safeguard limit shall, on 1 July 2018, decrease to EUR 4 per gigabyte*** of data transmitted***, on 1 July 2019 to EUR 3 per gigabyte of data transmitted,*** and, without prejudice to Article 19, ***on 1 July 2020, to EUR 2 per gigabyte of data transmitted, and on 1 July 2021, to EUR 1 per gigabyte of data transmitted. It shall*** remain at EUR ***1 per gigabyte*** of data transmitted until 30 June 2022.

Or. en

Amendment 5

Proposal for a regulation
Article 1 –point 6 – point a
Regulation (EU) No 531/2012
Article 19 – paragraph 3 – sentence 1

Text proposed by the Commission	*Amendment*
In addition, the Commission shall submit a report to the European Parliament and the Council every two years ***after*** 15 June ***2017***.	In addition, the Commission shall submit a report to the European Parliament and the Council ***by*** 15 June ***2019 and*** every two years ***thereafter, accompanied, if appropriate, by a legislative proposal to amend the wholesale charges for regulated roaming services laid down in this Regulation***.

Or. en

Amendment 6

Proposal for a regulation
Article 1 –point 6 – point a a (new)
Regulation (EU) No 531/2012
Article 19 – paragraph 3 – point c a (new)

Text proposed by the Commission	*Amendment*
	(aa) in paragraph 3, the following point is added:
	"(ca) the range of tariff plans available to customers, including any emergence of tariff plans restricted to domestic services only and any reduction in the availability of flat-rate tariff plans."

Or. en

Amendment 7

Proposal for a regulation
Article 1 — point 6 – point a b (new)
Regulation (EU) No 531/2012
Article 19 – paragraph 3 – point c b (new)

Text proposed by the Commission	*Amendment*
	(ab) in paragraph 3, the following point is added:
	"(cb) the ability of visited network operators to recover all costs of providing regulated wholesale roaming services, including joint and common costs."

Or. en

Amendment 8

Proposal for a regulation
Article 1 — point 6 – point a c (new)
Regulation (EU) No 531/2012
Article 19 – paragraph 3 – point c c (new)

Text proposed by the Commission	*Amendment*
	(ac) in paragraph 3, the following point is added:
	“(cc) the ability of home network operators to sustain their domestic charging model and to recover the costs of providing regulated roaming services from the revenues from the provision of such services, and the extent to which exceptional retail roaming surcharges have been authorised pursuant to Article 6c.”

Or. en

EXPLANATORY STATEMENT

Introduction

Regulation (EU) 2015/2120, the Telecoms Single Market ("TSM") Regulation, adopted in 2015 provided for the abolition of retail roaming charges on voice calls, data and SMS as of 15 June 2017: so-called Roam Like at Home (RLAH). For RLAH to come into effect, legislation adapting the prices caps for wholesale roaming services has to be applicable by that date. As requested by the co-legislators, the Commission conducted a review of the wholesale roaming market and based on that review proposed the legislation. This report is the first step towards adoption of that legislation in accordance with the ordinary legislative procedure.

RLAH is also subject to the possible application of 'fair use policies' by operators and exceptional derogations through a sustainability mechanism, due to be further elaborated and presented by the Commission in an Implementing Act by the end of the year. The Rapporteur wishes to underline that the implementing act goes hand in hand with the review on the wholesale caps. A generous fair use policy for consumers needs to be accompanied by wholesale caps that enable as many operators as possible to provide Roam Like At Home.

In its review, the Commission concluded that the wholesale roaming market is not functioning well and proposed to further lower the wholesale price caps on voice calls, SMS and data roaming.

Your Rapporteur fully endorses the objective of abolishing retail roaming charges in Europe and proposes further changes to the Commission proposal that would benefit the consumer and safeguard competitive telecoms markets.

Wholesale caps

The wholesale prices for data have decreased on the markets for years and there is no reason to believe that this development would not continue. The decreasing prices are very much linked to the rapidly growing usage of data all over the world. By 2021, according to some estimates, mobile data traffic will have increased tenfold compared to 2015. The economic benefits of increased data usage in European societies are clear, bringing with it new service opportunities and boosting industrial competitiveness. It should not be discouraged by any means.

Increased data usage will also drive new investments into infrastructure, enabling both domestic and visiting consumers to use even more data. The initial figures from operators already offering RLAH to their customers show a steep growth in data usage. Those consumers who still keep their mobiles switched off when they are travelling in the European Union, will be free to use data-based services once RLAH becomes a reality for all, further boosting data usage.

The Commission does not adequately take these developments into account, basing its proposal for the wholesale price cap for data on a conservative assumption of the increase in data usage and non-evolving market price level. This assumption has led the

Commission to propose a wholesale cap that your Rapporteur believes is too high. The Commission proposal sets an unchanged price cap for data to 0,85€c from 2017 to 2021 (with a review in 2019). However, in the calculations by TERA Consultants, accompanying the Commission's impact assessment, the cost of offering roaming wholesale services to an operator in 2017 is below 0,5 €c per MB in every Member States and below 0,4 €c per MB in 27 out of 28 Member States (with the exception of Malta).

The TERA study also demonstrates that higher usage will significantly drive down the cost per unit. To better reflect these realities on the data market, the Rapporteur considers that it is necessary to set the price cap for 2017 closer to the cost levels and to introduce an annually decreasing price cap for data. This glide path proposed by the Rapporteur in Article 12 reflects the reality in the wholesale markets, but also brings further predictability. Operators make roaming agreements with each other annually. The glide path makes it possible for the operators to better predict their roaming fees than a static price cap combined with a review whose outcome cannot be predicted.

Furthermore, the Rapporteur considers that too high price caps will lead to decreased competition in the markets. The smaller operators and the mobile virtual operators are innovators, competitors and can bring more clients to the home networks as well as roaming networks. However, they have lower bargaining power and the prices they pay for wholesale data roaming are usually on, or just below the regulated price cap. Imposing a price cap that is too high will bring economic difficulties for smaller and virtual operators, leave fewer actors and less competition on markets, thus limiting consumer choice. Too high price caps might also lead to operators opting to offer only domestic deals to their customers, which is against the rational of the Digital Single Market.

Moreover, if a generous fair use policy is accompanied by wholesale price caps for data that are too high, this will have a negative impact on those markets where data usage is high and/or retail prices low. This scenario might force visiting operators to apply for a derogation from RLAH through the sustainability mechanism, meaning that their customers no longer benefit from RLAH.

The Rapporteur also proposes to change the units used for data from megabytes to gigabytes (1024 MB), which takes better account of the fast-rising data usage that is currently observed and is expected in the coming years. The Rapporteur believes the unit is more suitable for new amounts of data consumption and makes the regulation more future-proof.

Finally, compared to the Commission proposal, the Rapporteur finds that there would still be room for both competition and cost recovery even with a lowered wholesale cap also for voice calls. The Rapporteur however considers the price cap for SMS to be adequate. The cap is well founded on the market realities as the use of text messages has been in decline and slowly replaced by competing data-based services.

Review clause

The Commission proposes a review of price caps every two years after 15 June 2017. The Rapporteur agrees with this, in combination with the proposed glide path. If it is demonstrated that price caps are set too high and disrupt the functioning of markets, destroy market actors and harm competition or that caps are set too low and endanger cost recovery for visited operators, the price caps can be adjusted accordingly.