

Dear Mr. Eberl,

We will be releasing a public report during August 2013 containing an analysis and our critical views of the Commission's draft proposal to end roaming by regulating wholesale access caps.

We are convinced that the Commission does not need to open the Pandora's box and risk ruining the European mobile industry because its executives refuse to end roaming voluntarily.

The proposed heavy handed regulation of wholesale access, as it has been reported in the media, could trigger several toxic side effects beside reducing the cost of roaming;

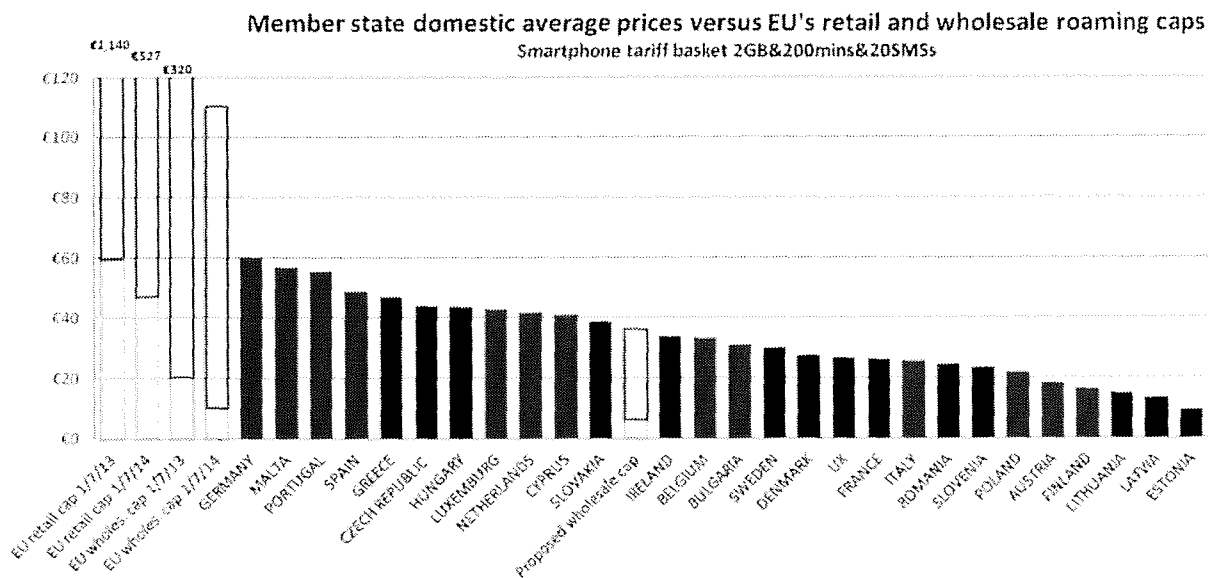
- **Zero-capital MVNO speculators;** It will open the mobile data door to MVNOs with speculative business models. Build a base at a small loss and then cash-in by selling the base back to the network operators. This causes uncontrolled price erosion.
- **Long term credible MVNOs;** The proposed levels of 3 cent a minute and 1.5 cent per MB will only open an access window to few expensive markets. As it can be seen in the chart below the average retail (VAT incl.) prices for a 2GB-200min-20SMS reference basket in most member states are below €40. In order for such a measure to be effective across EU the data wholesale cap per MB should be set to no higher than 0.5 cent per MB and ideally closer to 0.1 cent per MB (€1/GB). Source Rewheel's May report.
- **Cable and OTT alternative operators;** It will provide investment-free European wide mobile access to cable (UPC, etc.), OTT alternative providers (Google, Apple) and alternative WiFi ISPs. The Commission is mistaken if it is under the impression that the wholesale cost of 3 cent a minute and 1.5 cent per MB (€36 for 200mins and 2 GB) will protect mobile operators. Such alternative providers with home and public WiFi networks could easily direct most smartphone generated traffic through their own networks and only use the mobile networks for outdoor usage such as minimizing their wholesale bill (e.g. steering 90% of the end consumers traffic onto their own WiFi networks and only 10% onto the wholesale cellular access). In essence they could capture a disproportionately high share of the current retail mobile customer base.

Effectively, the Commission's proposal will be creating an unquantifiable mobile industry revenue leakage. Revenues that will flow by force to competing industries (cable, WiFi ISPs, OTT) will starve mobile operators from the needed capital to invest in improving the coverage and cost efficiency (cost of capacity) of their networks. If the Commission's proposal is diluted by horse trading and the MB cap is increased to over 2-3 cents (€20-€30/GB) it will yield a total ineffective piece of legislation as far as domestic wholesale access is concerned.

Therefore, the proposed wholesale cap, while not effectively lowering consumer prices it will likely cause serious unintended consequences/harm to the mobile industry as a whole. Regulated wholesale access will most certainly increase consumer choice at retail and may trigger a one off price correction in the expensive protected markets. However, sustainable long term price competition can only be achieved by promoting investment and competition in the infrastructure layer below. Only by investing in the newest most cost efficient technologies can operators lower consumer prices while doubling every year the offered data capacity.

Thus, if the Commission is truly concerned about mobile access it should enact legislation that promotes infrastructure based competition. Promoting infrastructure based competition, as a side effect, will likely open the doors for new MVNOs too, as it was the case with No.4 and No.5 operators like E-Plus in Germany and Telfort in the Netherlands (before it was taken over by KPN) which were in the forefront of open network access.

In our paper we will be proposing a much lighter regulatory retail intervention that could bring an end to roaming in 1-2 years, increase the price transparency & convergence across the EU28 mobile markets and incentivize investment in new cost efficient network technologies.



Kind regards

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