Working Party on Communication Infrastructures and Services Policy

INTERNATIONAL MOBILE ROAMING CHARGES: PROPOSAL BY AUSTRALIA

PARIS 8-9 DECEMBER 2008

This paper, submitted by the Government of Australia, proposes that the Working Party, in the context of the CISP work programme, examine competition, costs and prices in international mobile roaming charges and relevant policy options in this area.

The Working Party is invited to discuss the outline and agree to the proposal.

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PROPOSAL BY AUSTRALIA:
INTERNATIONAL MOBILE ROAMING CHARGES (IMRC)\(^1\)

1. Australia would like to propose that the CISP Working Party undertake work to examine international roaming charges\(^2\), in particular:
   - Cost, prices and agreements for international mobile roaming.
   - Competition in international roaming markets and
   - Relevant policy options and possible practical arrangements between OECD countries\(^3\).

2. This proposal is submitted for discussion and agreement to the Working Party 8-9 December 2008.

The IMR market has not resulted in competitive, cost-based pricing for end-users

3. Earlier this year the Australian Government received submissions from national and international users groups\(^4\) on excessive charging for international mobile roaming (IMR). The Department of Broadband Communications (DBCDE) commissioned KPMG to research the issue, which has also become the subject of a Parliamentary Inquiry. The KPMG Report\(^5\) found that average retail charge for an international roamed mobile call is more than 5 times higher than the cost of providing the wholesale service and that there was little correlation between wholesale termination costs (domestic termination approximates 19 cents / minute), and IMRC (retailing at average of AUS $2.75 / minute).

4. The European Commission’s research in intra-EU IMR also concluded that “the excessively high costs... do not reflect the actual costs of the operators of [international roaming] services The Technical University of Denmark mobile Roaming Margin Analysis\(^6\) found that margins for international roaming calls were at least four times higher than non-roamed mobile calls.

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1. Since the EU tariff has effectively abolished this excess charge within its borders, “IMR” or “IMRC” will be taken to mean international roaming (charges) between non-EU countries, or between non-EU and EU countries (but not that between two EU countries).
2. “Roaming” should be taken to cover the arrangements for provision of both voice and data services (including SMS) to and from the mobile handset (with home provider’s SIM) of users when travelling between non-EU countries, or between non-EU and EU countries.
3. See footnote 4
5. Advice to DBCDE (Australia), KPMG Report of Findings on International Mobile Roaming Charges, June 2008
6. Table 1 (p7) of “Regulation of International roaming Charges - the way to cost base prices?” report, Centre for International and Communication Technologies, Technical University of Denmark.
5. While many of the GSM mobile carriers are present in a number of countries across the OECD, this apparent advantage is not yet being effectively leveraged to gain market share by offering domestic/reduced rate roaming in countries where they have a presence. In this context, Zain, a Kuwait-based company, has shown the way forward by not charging for roaming in countries where it has presence and has had significant success with such a strategy, across Africa and the Middle East.

Policy makers around the OECD are considering the issue but those outside the EU face jurisdictional challenges (in both assessment of the problem and effectively addressing it)

6. The EU has responded to the challenge to its Single Market objectives with regulatory measures which set prices (Euro-tariffs) and provide accessible consumer information on cross-border roaming charges between EU countries. The mobile roaming regulation is aimed at addressing:

- The high prices for roaming calls at both wholesale and retail levels, which studies had found were not justified by the underlying costs of providing the service (on the basis of consumer protection).
- The fact that national regulatory authorities could not effectively address this under the existing framework (by identifying significant market power in the relevant national market—“wholesale IMR”), in view of the cross-border nature of the service.

7. Extension of the EU regulation, to cover SMS and data roaming services, has been proposed by the European Commission.

8. Regulatory action in OECD countries outside the EU Single Market is obviously more challenging without Treaty Law or institutions with comparable cross-jurisdictional powers. However, non-EU OECD countries are certainly aware of the issue and the implications of the EU model. The issue is also being raised in a number of non-EU regions including APEC.

8 As provided for by the Framework Directive on Electronic Communications 2002/21/EC, and the Recommendation on Relevant markets susceptible to ex-ante regulation (OJ L114, 8.5.2003) which includes the wholesale national market for international roaming on public mobile networks
9 The reasoning was based on consumer protection rather than simply lack of competition in the relevant market, because a finding of “significant market power” in wholesale national markets for international roaming was not possible “in view of the specific circumstances of international roaming, including its cross-border nature. “A common approach is needed so that mobile operators can operate within a single, coherent regulatory framework based on objectively established criteria”.
10 Currently awaiting European Parliament approval.
11 Compared to that of EU Treaty Law and the European Commission (CEC)
12 Based on an Australian proposal, the APEC TEL Working Group, (09/08) agreed to commence work on investigating IMR issues in the region by submitting responses to a standard survey. The data is to be collated and analysed in preparation for the APEC TEL Workshop in International Roaming to be held in Singapore in April 2009 (http://www.apectelwg.org/, 2008/TEL38/LSG/004rev1 (survey); and 2008/TEL38/LSG005 (Australian project proposal). Preliminary APEC discussion has also identified related work in Latin America and ASEAN.
Current availability of data on International Mobile Roaming Agreements is inadequate (extra -EU) because limited by the territorial competence of the relevant national authorities:

9. To date, the Australian Government has been unable to obtain adequate information concerning the negotiated international roaming agreements made between Australian operators and overseas operators and in particular wholesale charges. Recent KPMG research commissioned by the Australian Government on IMRC noted that: “The commercial agreements that underpin the wholesale rates charged between carriers are not publicly available”, …..and that, they are “normally agreed” through an “international roaming agreement . based on a model developed by the GSM Association13”.

10. The Australian competition authority (ACCC) has initiated consultation on a discussion paper14 which includes proposals for the introduction of new reporting requirements for IMR services at an aggregated level. However, even with such an amendment, the value of the data collected would be limited by the ACCC’s jurisdictional boundaries.

Given both its mandate and its past experience, the OECD (and the WP CISP in particular) is uniquely well suited to provide research, data collection and analysis of the issue;

11. The proposed work would fit under item 4.3 in the ICCP’s Programme of work and Budget which deals with “Extending connectivity and promoting competition in access networks”.

12. It would also build upon recent CISP / TISP reports on international telecommunications and competition in global IP connectivity market15; as well as on the implications of WiMAX16. IMR naturally fits under a number of the suggested topics in the CISP draft Programme of Work 2009/2010 (DSTI/ICCP/CISP(2007)15). It should also be seen as a relevant follow-up to the Ministerial meeting on The Future of the Internet earlier this year. In particular this concerns consideration of the international aspects of: Mobile convergence; Competition in emerging NGN markets; and Protecting and Empowering Consumers

The suggested scope of CISP work would include:

- To consider the state of the market and its impact on cross-border business and communications and to increase transparency in the area;
- To consider the potential for technology and business developments to bring new competitive pressures to bear on IMR prices;

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13  www.gsmworld.com
14  http://www.accc.gov.au/content/index.phtml/itemId/844151
16  DSTI/ICCP/TISP(2005)4/FINAL: The Implications of WiMAX for Competition and Regulation (whilst emphasising the importance of technology neutrality in spectrum policy, the report did not cover the issue of potential discrimination as regards global connectivity (international wholesale interconnection market for mobile transmission and roaming services) nor consumer awareness of alternatives to mobile managed services
17  Digital Content and Network Convergence (Topic: Internet backhaul); Communication policy and regulation (Topics: Evolving Developments in Mobile Services; and Pricing of Data Access in Mobile Markets
• To consider the merits of consumer information and other regulatory measures that may be appropriate and feasible;

• To consider the commercial and regulatory approaches under way to reduce roaming costs in particular regions and how cross-border cooperation may develop further;

• To consider whether and how the issue could be considered in trade negotiations if other measures are ineffective.

Such analysis could lead to useful suggestions regarding practical possibilities for OECD Governments to address international roaming involving countries outside the EU

13. This might include:

• Co-operation on information sharing between Governments;

• Best practice (national and EU) models for ensuring improved consumer awareness of:
  − Pricing of roaming services from competing home providers;
  − Technological alternatives to traditional mobile roaming (for both mobile voice and mobile data services);
  − Availability and costs of alternative solutions in foreign countries (pre-paid SIMs; 3G USB modems, etc.).
  − Exchange of views on best practice regulatory initiatives.

14. It may also be appropriate to consider possibilities for international cooperation on consumer information on pricing and options across OECD countries:

1. Consideration of the importance of the unique cross-jurisdictional competence of EU institutions and legislation in the information gathering and reporting requirements supporting the EU regulatory framework for addressing (intra-EU) IMR.

2. Reconsidering the need for OECD “information sharing and co-operation between national authorities to complete the picture” in assessing the state of competition in provision of end-to-end international telecommunications (TISP 2002)\[18\].

3. Suggesting possible practical arrangements to ensure effective access, availability and presentation of such information, to serve the interests of both OECD Government authorities and of consumers in OECD countries.

\[18\] DSTI/ICCP/TISP(2001)5/FINAL: “Internet traffic Exchange and End-to-End International Telecommunication Competition”(13/3/02). This report noted concern about the adequacy of existing data to inform Member Governments about competition in wholesale international markets\[18\] and the need for “information sharing and cooperation between national authorities to complete the picture”.
WP CISP next steps:

15. Australia hopes to encourage open discussion of the significance, scope and direction of work around the subject matter of this paper.

16. In addition, we would support the establishment of a “Virtual Group” of national experts to exchange views and assist the CISP Secretariat in undertaking this work.

17. Based on discussion / dialogue of the virtual group, we envisage the development of an “Interim Scoping Report” to be drafted by CISP secretariat in time for the June 2009 CISP meeting.