December 29, 2021

POST Technologies
Wholesale and Corporate Functions
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L-2999 LUXEMBOURG

Dear Sir, Madam,

In response to Post Luxembourg's public consultations about the planned evolutions of its Reference Interconnect Offer (RIO version 4.2.0) and its Reference Interconnect Offer Mobile (RIOM Version 3.2.0) that would both take effect on 1 February 2022, Verizon would like to express its strongest opposition to the removal of the U.S.A. (including Alaska and Hawaï) from the list of countries exempted from traffic termination surcharges.

According to these new draft RIO and RIOM, a surcharge of €ct 4.5 would be applied for the termination of fixed and mobile voice calls originating in the U.S.A. and terminating in Luxembourg, in addition to the regulated harmonised termination rates applicable to voice traffic originated in the European Union. Unless we missed something, we could not find any justification for such a change, neither in the documents submitted to public consultation by Post Luxembourg, nor on its website.

Verizon considers that such an evolution would constitute an infringement to the European Commission's Delegated Act on Termination Rates ("Delegated Act") which was adopted in December 2020 and published in the EU's Official Journal on 22 April 2021. This Delegated Act is applicable across the European Economic Area from 1 July 2021, as also confirmed in Post Luxembourg's RIO and RIOM.

The Delegated Act sets a glidepath to maximum termination rates of €0.2 cents per minute for mobile termination rates by 2024 and €0.07 cents per minute for fixed termination rates by 2022 across the EEA (the "Eurorates").

These Eurorates do not only apply to calls originated from and terminated to EEA-numbers, but also to calls originated from third-country numbers and terminated to EEA-numbers, where the termination rates applied for calls originated from EEA-numbers and terminated to those third-country numbers are at a level equal to or lower than the level of the maximum voice termination rates set by the Delegated Act for each year in each Member State (as meant in Article 1 (4) (a) Delegated Act).

Regardless of which country these calls originate from (including the EEA countries), the termination rates which are applied to calls terminated to U.S.A.-numbers are lower than the Eurorates set by the Delegated Act.

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In this context it is essential to compare the “bare” termination rates and to eliminate any extra transport or transit cost. The U.S.A. termination rates are the "bare" termination rates that do not include any transport or transit rates which could be added to them depending on the level of interconnection and in case of transit. The same applies to the Eurorates, which are also the "bare" termination rates, without any transport or transit charges added to them. Otherwise one would compare apples with pears.

This is evidenced by the following information which is verifiable by Post Luxembourg:

- FCC rules (Bill-and-Keep)
  - Part 51 rules, especially, Subpart H & Subpart J, establish “bill-and-keep” as the default methodology for traffic between and among service providers.
    - Bill-and-keep arrangements are those in which carriers exchanging telecommunications traffic do not charge each other for specific transport and/or termination functions or services.
  - These rules apply to all voice traffic terminating on U.S. carrier networks, including “local” traffic (under Subpart H) and non-local “access” traffic (under Subpart J and related Part 69 rules), that expressly includes foreign call traffic.
  - The FCC expressly included US wireless providers in the transition to bill-and-keep (which actually was always the dominant form of traffic exchange for wireless providers in the US, even before the FCC's 2011 reforms). See FCC 11-161, para. 737, para. 806 and footnote 1498.
  - Verizon completed the transition to full “bill-and-keep” rules on July 1, 2018.
- Verizon’s tariffs
  - Verizon’s tariffed rates reflect the FCC’s regulations for “bill-and-keep” zero termination rates (these apply to both domestic interstate and foreign traffic), and Verizon also applies bill-and-keep zero termination rates on calls to its mobile numbers in the U.S. regardless of their originating countries
  - Full tariffs (see the relevant links: Bell Atlantic, NYNEX, GTE)
  - Examples of zero termination charge:
    - see section 6.9.2 of Bell Atlantic tariff (page 6-364) (end office local switching termination rates of $ .000000)
    - see section 6.9.1 of Bell Atlantic tariff (page 6-329) (tandem switched transport rates of $ .000000 for termination to Verizon end offices)
  - Example of application to both U.S. interstate and foreign traffic, see definitions in section 2.6 of Bell Atlantic tariff (starting on page 2-56)

On this basis, Verizon is strongly asking Post Luxembourg to amend its above mentioned RIO and RIOM in such a way that the U.S.A. (which include Alaska and Hawaï) will remain on the list of countries that benefit from Eurorates for the termination of fixed and mobile traffic originating in the U.S.A.

For completeness we note that a few other countries where termination rates are equal to or lower than Eurorates, such as Canada, should also remain in the list of countries exempted from termination surcharges.

Verizon is expecting Post Luxembourg to produce a new draft RIO and RIOM in line with Verizon's request so as to comply with the disposition of the above referenced EC Delegated Act.

Yours sincerely,

Charlotte Eijberts
Manager Regulatory & Government Affairs Benelux