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From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft Regulation of the European Parliament and of the Council amending Regulation (EU) No 531/2012 as regards rules for wholesale roaming markets **(first reading)**
- Adoption of the legislative act
= Statement

Statement by Croatia, Cyprus, Greece and Spain

Following the outcome of the third trilogue of January 31st, as reported by the Maltese Presidency during the COREPER I meeting of February 1st and the finalisation of the compromise text in the COREPER I meeting of February 8, we feel compelled to comment on a number of issues that undermine the overall fairness of the agreement.

First and foremost, we would like to voice our deep disappointment, as the final text is too distant from the General Approach and the European Commission's initial assessment and proposal for the sustainable implementation of Roam-Like-At-Home (RLAH).

Even though we fully subscribe to the notion of RLAH and strongly support the abolition of retail roaming charges for consumers, as provided for by Regulation (EU) 531/2012, we feel that the final text does not effectively prevent the occurrence of unrecoverable losses for the providers of regulated roaming services, especially when these providers exhibit significant imbalances between incoming and outgoing roaming volumes. The political goal of the abolition of roaming surcharges by June 2017 could have been achieved with a sustainable and fair approach for all Member States, including those Member States that exhibit particularities such as high seasonality, geographical dispersion of the network infrastructure and high roaming traffic imbalance.

The recovery of all costs incurred by the adoption of RLAH for mobile telephony providers and the preservation of incentives for investment in the visited markets, have been fundamental assumptions for the sustainability of the European ecosystem of mobile telephony and the avoidance of distortions. Despite these assumptions, in particular, the agreed values of the glide path for the wholesale roaming data caps cannot ensure the recovery of those costs, and will inevitably create distortions in visited markets and undermine investments in this critical business sector.

Under these conditions, the abolition of retail roaming charges will entail a major challenge to mobile telephony across the EU, the burden of which should have been distributed fairly across all Member States. On the contrary, the final compromise places most of the burden on a small number of countries exhibiting the particularities mentioned above, creating a certain risk that, at national level, domestic prices are increased, due to the so called “water-bed effect”. This distortion will cause a cross subsidy in which domestic consumers in the affected countries, will end up subsidizing international roamers.

Moreover, it is regrettable that the proposed sustainability mechanism, which would be invoked only in extreme and fully justified cases, and could provide the only way out of a potentially disastrous situation of great distortion, is not part of the agreement. The elimination of this provision, effectively removes the means for a swift and objectively fair resolution of issues related to roaming cost recovery, further displays the imbalance of the reached agreement and creates a potential discrimination between retail operators who benefit from a sustainability mechanism, and wholesale operators who are deprived from this safeguard.

In view of the above, we call upon the Commission a) to closely follow the developments related to RLAH and the repercussions across the EU from the abolition of retail roaming charges on home markets, b) to be ready to take corrective action even prior to the revision foreseen in the agreed text, if necessary, and c) to consider in detail the impact of RLAH on investments, when reporting on the effects of RLAH to the European Parliament and the Council.

Finally, despite the adverse circumstances, we declare once again our commitment to RLAH for consumers and to the continued provision of high quality mobile telephony services to all users.
