

## Commission approves 3G network sharing in the United Kingdom

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The [European Commission](#) has [decided](#) to give antitrust approval to agreements entered into between T-Mobile and mm02 that relate to site sharing and roaming on the parties' third-generation (3G) networks in the United Kingdom. This is the first time that the commission has had to scrutinize 3G network-sharing agreements within the framework of EU antitrust rules.

The commission found that the site-sharing agreement did not restrict competition and thus did not fall within the scope of [Article 81\(1\) of the EC Treaty](#), which prohibits agreements that have an appreciably adverse effect on competition in the European Union. Site sharing is considered the lowest level of network sharing between 3G operators. It ranges from sharing individual masts or power supply up to grid sharing, and may also include site support infrastructure. In light of the limited horizontal cooperation envisaged under site-sharing agreements, the commission indicated that it did not see any competition concerns in relation to this agreement.

Under roaming agreements, on the other hand, operators do not share network elements - they simply use each other's network to provide services to their own customers, which according to the commission may restrict network-based competition. Although the commission did not give the following reason, it seems that restricted competition could be due to the fact that an operator may prefer to use another operator's network instead of improving and developing the coverage, quality or speed of its own. In addition, the cost commonalities associated with network sharing may result in limited price competition.

Nevertheless, the commission agreed to temporarily exempt the roaming agreement from the prohibition of [Article 81\(1\)](#) because it appears that any competition restrictions are compensated by faster network roll-out leading to increased competition. Other advantages include the environmental benefit resulting from the fact that less infrastructure needs to be deployed.

The exemption for the roaming agreement lasts until December 31 2007 and is designed to (i) encourage the penetration of 3G services, particularly in small urban areas, and (ii) act as a start-up period for 3G services in general. The exemption will last an extra year in rural areas, where the agreement has significantly improved coverage.

The roaming agreement applies to less than 10% of the UK population and none of the 10 biggest cities. Further, the agreements are not exclusive and generally allow third-party site sharing and roaming, subject to limited exceptions. Finally, safeguards have been put in place to ensure that cooperation between the operators does not lead to the exchange of sensitive information.

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