

# Data roaming rates for wireless carriers

## CASE STUDY

### Client

T-MOBILE US INC.

### Industry

TELECOMMUNICATIONS

In May 2014, T-Mobile US Inc. (T-Mobile) filed a petition with the Federal Communications Commission (FCC) for an expedited declaratory ruling to provide guidance for determining whether the terms of a data roaming agreement between wireless carriers meet the “commercially reasonable” standard adopted by FCC in its 2011 *Data Roaming Order*. In its petition, T-Mobile asserted that, despite issuance of the 2011 *Order*, wireless providers continued to face difficulties negotiating data roaming agreements on commercially reasonable terms with the two largest mobile wireless companies—AT&T and Verizon Wireless—and that this was due, at least in part, to ambiguities in the commercially reasonable standard for data roaming.

Working with the law firm Mintz Levin Cohn Ferris Glovsky and Popeo PC, which represented T-Mobile, a team of Bates White economists led by Partner and University of California, Berkeley, Professor of Economics Joseph Farrell submitted two analyses to FCC.

In his May 2014 submission, Dr. Farrell explained that consumers have come to expect national wireless coverage and that all wireless carriers (to differing extents) rely on roaming to provide such coverage. He further explained that, in some cases, wireless carriers have both substantial market power in supplying roaming and a substantial economic incentive to use this power to raise rivals’ costs; in such cases, FCC should not deem high rates (or unduly burdensome non-price terms) to be commercially reasonable.

In his submission, Dr. Farrell also proposed four benchmarks that FCC should consider in drafting guidance for the industry and in evaluating whether a proposed wholesale data roaming rate is commercially unreasonable. The four proposed benchmarks were: (1) a suitable measure of retail price, (2) the wholesale data roaming rates charged to foreign carriers when their customers roam in the United States, (3) the price for wholesale data service charged to mobile virtual network operators, and (4) the general level of prevailing domestic wholesale roaming agreements.

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In December 2014, FCC’s Wireless Telecommunications Bureau granted T-Mobile’s petition, thereby providing the wireless carriers greater guidance as to how the Commission is likely to evaluate the reasonableness of proposed data roaming rates.

In a statement released by T-Mobile, Senior Vice President of Government Affairs Andy Levin applauded the ruling: “Consumers deserve affordable access to mobile broadband from their carrier of choice no matter whether they’re at home or on the road. We commend the FCC for taking this important step to promote competition by facilitating reasonable data roaming rates for all carriers and their customers.”

Read T-Mobile’s [May](#) and [August](#) 2014 filings, which include Dr. Farrell’s declarations, via the FCC website.