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Press and Information

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Judgment of the Court in Case C-19/03

Verbraucher-Zentrale Hamburg eV v O2 (Germany) GmbH & Co. OHG

THE COURT STATES WHICH ROUNDING RULES APPLY TO MONETARY AMOUNTS AND TARIFFS FOR GOODS AND SERVICES IN CONNECTION WITH THE INTRODUCTION OF THE EURO

There is no requirement under Community legislation that a telephone tariff calculated on a per-minute basis should be rounded to the nearest cent, i.e. to two decimal places. Such rounding is, however, permissible but only if it is consistent with the general principle of continuity of contracts and the objective that the transition to the euro should be neutral

A 1997 Council Regulation¹ provides that conversion rates, adopted as one euro expressed in terms of each of the national currencies of the eurozone, are to be adopted with six significant figures and cannot be rounded or truncated when making conversions. However, monetary amounts to be paid or accounted for, when a rounding takes place after a conversion into the euro unit, are to be rounded up or down to the nearest cent.

In 2001, during the so-called transitional period, O2, which operates a mobile telephone network in Germany, converted its price-per-minute tariffs from German marks into euros and rounded them to the nearest cent. Verbraucher-Zentrale, a consumer association competent to take legal action in respect of breaches of consumer protection laws, took the view that this rounding practice resulted in an increase in O2's prices. It maintained that the per-minute price could not be rounded in such a way under the 1997 regulation, since that price was only an intermediate amount, not an amount to be paid or accounted for.

The Landgericht München I, before which Verbraucher-Zentrale brought an action, stayed the proceedings and asked the Court of Justice whether such a tariff constituted an amount to be paid or accounted for within the meaning of the Council regulation and whether it thus had to be rounded or whether only the final amount for which the customer was actually invoiced could constitute such an amount. If the answer was negative, the Landgericht wished to know

¹ Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro (OJ 1997 L 162, p. 1)

whether the Council regulation precluded amounts other than those which must be paid or accounted for from being rounded to the nearest cent.

The Court noted first that the concept of "monetary amounts to be paid or accounted for" under the 1997 regulation clearly includes amounts which give rise to payment on the consumer's part, namely all monetary debts and amounts entered in accounting documents or statements.

In order to determine whether that concept also encompasses monetary amounts, such as the per-minute prices applied by O2, which serve as a basis for calculating the price to be paid by the consumer, the Court referred to the objectives of the regulation, chief of which was the objective that the transition to the euro should be neutral, which was intended to ensure that the transition to the euro should take place without affecting obligations already entered into by citizens and firms. In the Court's view, it followed that the regulation sets only minimum rules in relation to the rounding of certain amounts: the rules are not intended to be exhaustive in relation to intermediate computations concerning those amounts and cover only amounts entailing payment on the consumer's part and amounts entered in accounting documents or statements of account. As regards those amounts, practical reasons – particularly where payment is in cash – not only justify but also require there to be rounding to the nearest cent.

The Court concluded that **a tariff such as the per-minute price at issue does not constitute an amount to be paid or accounted for within the meaning of the regulation concerned – and thus to be rounded –, since there is no practical reason why the amount must be rounded in every case to two decimal places.** Furthermore, such an amount is not actually invoiced to, and paid by, the consumer and it is not entered as such in any accounting document or statement of account. The Court also observed that **the fact that for the consumer the tariff represents the decisive factor as regards the price of the goods or services does not affect that finding.**

However, the Court stated that while the rounding to the nearest cent of amounts other than those which must be paid or accounted for is not in principle precluded by the regulation, it is not permissible in every case. Thus, where the price to be paid is obtained by taking into account a large number of intermediate calculations, rounding to the nearest cent the per-unit tariff for the goods or services concerned, or each of the intermediate amounts involved in the invoicing process, is liable to have a real impact on the price actually borne by consumers. The general principle of continuity of contracts and the objective that the transition to the euro should be neutral mean that a rounding practice should not affect contractual obligations entered into by economic agents, including consumers, and that it should not have a real impact on the price actually to be paid. The Court found that it was for the national court to ascertain whether that was the case in the dispute before it.

Unofficial document, for media use only, which does not bind the Court of Justice.

Languages available: French, English, German, Dutch.

The full text of the judgment can be found on the Court's internet site

<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en>

In principle it will be available from midday CET on the day of delivery.

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