



EUROPEAN COMMISSION

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**REGULATORY SCRUTINY BOARD OPINION**

**Proposal for a Regulation of the European Parliament and of the Council  
on roaming on public mobile communications networks within the Union  
(recast)**

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{SWD(2021) 27}

{SWD(2021) 28}

{SWD(2021) 29}





EUROPEAN COMMISSION  
REGULATORY SCRUTINY BOARD

Chair

Brussels, 20 November 2020  
RSB/VG

**NOTE FOR THE ATTENTION OF  
ROBERTO VIOLA, DIRECTOR- GENERAL, DG CNECT**

**Subject:** Impact Assessment accompanying a Legislative Proposal related to the prolongation and review of the Roaming Regulation

Please find in annex the positive opinion of the Regulatory Scrutiny Board on the draft impact assessment report on the above-mentioned subject.

Please note that the impact assessment report and the Board's opinion should be added to the corresponding initiative as it goes into the interservice consultation and as it is presented to the College<sup>1</sup>.

Once the College has adopted the corresponding initiative, the Board's opinion will be published on the Europa website, unless you inform us of the reasons - in accordance with Regulation 2001/1049 - why this should not be done in this particular case prior to the date of adoption.

In view of the Commission's commitment to better quantify impacts of the proposed legislative acts, the Board will henceforth publish, together with its Opinions, the standard tables on costs, benefits and REFIT aspects of the preferred option(s), as presented in the impact assessment report.

*(e-signed)*  
Veronica Gaffey

Encl. Opinion of the Regulatory Scrutiny Board

Copies B. Seibert, J. Petkova (President's Cabinet)

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<sup>1</sup> More detailed instructions are available on GoPro.

J. Nociar, F. Hoss (Cabinet of Vice-President Šefčovič)  
V. Moutarlier, F. Chirico (Cabinet of Commissioner Breton)  
K. Jørgensen (Cabinet of Executive Vice-President Vestager)  
M. Bjorklund, A. Kopp, B. Naudts, M. Gremminger (Board Members)  
I. Juhansone, P. Leardini, M. Wimmer, J. Watson, O. Girard,  
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A. Cipollone, I. C. Condurat, P. Bouwen (SG)  
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EUROPEAN COMMISSION  
Regulatory Scrutiny Board

Brussels,  
RSB/

## **Opinion**

**Title: Impact assessment / Roaming on public mobile communications networks within the EU**

**Overall opinion: POSITIVE**

### **(A) Policy context**

This initiative aims to revise the roaming Regulation (EU 2015/21201) that came into effect in June 2017. The Regulation established the "roam-like-at home" (RLAH) regime. This allows EU customers to enjoy the services (voice, SMS and data) subscribed to in their home countries in all other Member States. No charges in addition to the domestic price for these services can apply (subject to the fair use policy and a sustainability derogation).

The Regulation will expire on 30 June 2022. A Commission review report in November 2019 analysed the implementation of the Regulation. This initiative builds on the review. It investigates how the benefits of the existing Regulation can be maintained and kept fit for purpose in view of technological and market developments. It is part of the Commission's ambition to ensure "A Europe fit for the digital age".

### **(B) Summary of findings**

**The Board notes the useful additional information provided in advance of the meeting and commitments to make changes to the report.**

**The Board gives a positive opinion. The Board also considers that the report should further improve with respect to the following aspects:**

- (1) The report does not sufficiently explain the risks to the economic viability of operators and the rationale for choosing the level of the wholesale price caps.**
- (2) The report does not sufficiently explain the choice of measures for the preferred option.**

### **(C) What to improve**

- (1) The report could better explain how increasing demand for services leads to economic risks for inbound operators if unit costs decrease with increasing usage of the network.**

This opinion concerns a draft impact assessment which may differ from the final version.

(2) The report should better explain the reasoning behind the choice of the level of the price caps, in particular the specific cap proposed for data. In this regard, it should discuss which alternative options were considered and explain why these price cap variants were eventually discarded.

(3) The report should better explain the various combinations of measures it considered in defining the preferred option. It should set out more clearly why certain potentially beneficial measures were not included.

(4) The report should further develop and analyse the impact of the COVID crisis on the baseline. It should assess its impact on the sustainability of RLAH, both for outbound and inbound operators. It should expand the sensitivity analysis by explaining how the discussion of sensitivity results reflects the possible impacts of the COVID crisis.

(5) The report should present upfront the broader political and regulatory context of the initiative. It should explain the importance of the initiative and how it contributes to the development of other EU policies.

(6) The report should better highlight what key problem is tackled by this initiative in terms of its magnitude and urgency.

The Board notes the estimated costs and benefits of the preferred option in this initiative, as summarised in the attached quantification tables.

*Some more technical comments have been sent directly to the author DG.*

#### **(D) Conclusion**

**The DG must take these recommendations into account before launching the interservice consultation.**

Full title	Proposal for a Regulation on roaming on public mobile communication networks within the Union.
Reference number	PLAN/2020/6784
Submitted to RSB on	22/10/2020
Date of RSB meeting	18/11/2020

## **ANNEX – Quantification tables extracted from the draft impact assessment report**

*The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.*

*If the draft report has been revised in line with the Board’s recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.*

### **Overview of Benefits (total for all provisions) - Preferred Option**

<b>I. Overview of Benefits (total for all provisions) – Preferred Option</b>		
<b>Description</b>	<b>Amount</b>	<b>Comments</b>
<b>Direct benefits</b>		
Improved QoS for end users while roaming and transparency about the expected QoS	Cannot be monetised	As a result of the QoS related measures.
Better awareness of means to access emergency communications while roaming	Cannot be monetised	As a result of the emergency communications related measures, roamers will be informed through the Welcome SMS about the means of access to emergency communications, especially for disabled end users.
Reduced calls to VAS by end users while roaming, leading to reduced bill shocks	Cannot be monetised	As a result of the VAS related measures.
Reduced frustration from bill-shocks from calls to VAS	Cannot be monetised	Complaints to NRAs concerning calls to VAS are relatively low (according to the transparency and comparability report 2020, more than half the NRAs have not received any complaints and about 40% have received 2 complaints in the past year while only 3 appear to have a higher number). Still the number can be reduced, if consumers are adequately warned.
Reduced operator loss	42% in 2023 and 53% in 2025	Sustainability improvement leads to a reduction of the total (negative) roaming margin of the operators with negative sustainability by these percentages.
Reduced risk of losses	14,000	Median saving per operator facing

from calls to VAS for operators		losses due to misuse, assuming a modest 20% reduction, following the measures concerning calls to VAS
Administrative cost reduction	To be estimated	As a result of the REFIT measures and the overall effort to streamline the reporting process and reduce administrative burden.
Indirect benefits		
More lives saved and impacted	Cannot be monetised	Reduced risk for roamers to be unable to place an emergency call, when needed. The estimated impact is 0.45 lives saved and 4,37 lives impacted <sup>1</sup> per 100,000 calls.
Reduced risk for not enjoying RLAH benefits	Cannot be monetised	In 2025, the percentage of EEA end users that could be subject to sustainability derogations, hence not enjoy the full RLAH benefits, is reduced from 14.1% to 8.6%.
Reduced cost from fair use policies for users making heavy use of services while roaming	The reduction of the wholesale data caps from 2.5 €/GB in 2022 to 2 €/GB in 2023 and to 1.5 €/GB in 2025 will lead to reduced fair use policy surcharges by 20% in 2023 and another 25% in 2025.	
Higher customer satisfaction and improved reputation, by improving QoS	Cannot be monetised	According to the joint Commission/BEREC online survey, 18% of operators have received complaints on only max 3G available (2.1% report more than 1,000 complaints) and 22% have received complaints on no full 4G speeds possible (1.4% report more than 1,000 complaints). We can expect a substantial reduction to complaints, as a result of the proposed measures.

(1) Estimates are relative to the baseline for the preferred option as a whole (i.e. the impact of individual actions/obligations of the preferred option are aggregated together); (2) Please indicate which stakeholder group is the main recipient of the benefit in the comment section;(3) For reductions in regulatory costs, please describe details as to how the saving arises (e.g. reductions in compliance costs, administrative costs, regulatory charges, enforcement costs, etc.; see section 6 of the attached guidance).

<sup>1</sup> Lives impacted are those persons that have a diminished or prevented injury as a consequence of accurate location



The following two tables present the summary of costs. The first analyses the costs incurred by each measure while the second gives a comprehensive view of all costs involved per measure and category of stakeholder.

**Measures of the preferred option and costs they incur**

<b>Measure</b>	<b>Description of the measure</b>	<b>Description of the cost</b>
	<u>Quality of Service</u>	
B.1.a	Mandate mobile operators to provide clear information about the quality of service while roaming, that the end-user can reasonably expect.	Negligible one-off (compliance) cost for enhancing the content of the Welcome SMS.
B.1.b	Prohibit home operators from deliberately offering lower quality of service to their customers while roaming (e.g. limiting access to 3G instead of 4G in wholesale agreements), compared to the quality of service offered in the home country.	None, but enhancing the QoS will result in increased data consumption, hence higher wholesale costs (indirect cost).
C.1.a	Clarify the obligation on MNOs to give non-discriminatory access, upon a reasonable wholesale roaming access request, to all network generations (2G, 3G, 4G, 5G etc.).	Estimated costs are 0.5 person days per year for the operators (administrative) and 1 person day per year for the administrations (monitoring).
C.1.	Encourage operators to accept all reasonable requests for roaming agreements in the context of M2M services on reasonable terms and explicitly allowing permanent roaming, applying the provisions of Art 3(1)-(5). Clarify that alternative tariffs could be used in such M2M roaming agreements.	Estimated costs are 0.5 person days per year for the operators (administrative) and 1 person day per year for the administrations (monitoring).
C1.	Clarification on alternative tariffs Clarify that Article 27 of the Code on the resolution of cross-border disputes shall apply in all relevant disputes.	No costs involved
	<u>Emergency communications</u>	
B.3.a	Mandate operators to inform in the “Welcome SMS” about alternative means of access to emergency services, in particular for end-users with disabilities	Negligible one-off (compliance) cost for enhancing the content of the Welcome SMS.
B.3.b	Mandate operators to provide through the wholesale agreement all technical and regulatory information necessary for the implementation of free of charge access to emergency services and free of charge caller location for all roaming end-users, including end-users with disabilities.	Operators will need to update their wholesale roaming agreements (one off compliance cost). The cost cannot be estimated. It depends on the number of agreements per operator and the precise way to implement this obligation.  We further anticipate that each operator must spend approximately 1 person day per year for reporting to the NRA (administrative cost).

B.3.c	Introduce obligation to not charge all wholesale traffic pertaining to emergency communications	<p>By analogy, administration will incur an estimated (monitoring) cost of 1 person day per year.</p> <p>All operators will have to amend their (retail and wholesale) billing systems, to ensure that data traffic to emergency applications is free of charge (one off compliance cost). At retail level this is trivial and practically cost free, as this practice has been routine in mobile billing. On the other hand, the cost at wholesale level could be more substantial.</p> <p>In addition, MNOs will have to absorb the cost of access to emergency communications, when acting as visited networks.</p> <p>NRAs will have to monitor the implementation of this provision (recurrent monitoring cost), which we estimate to 1 person day per year.</p>
B.2.a	<p><u>VAS</u></p> <p>Inform all users that the use of Value Added Services while roaming is likely to incur an additional retail cost than when used nationally (through contracts, web page, welcome SMS).</p>	<p>Estimated cost of 2 person days (one off compliance) to add warning in contracts, develop a web page that informs end users about the risk of bill shocks from calls to VAS while roaming and enhance the contents of the welcome SMS message.</p>
C.2.a	<p>European solution: Create and maintain a European database, for operators and NRAs, of value-added services' number ranges (and where necessary individual numbers). Assign the task to BEREC.</p>	<p>BEREC will be called to develop the data base (one off implementation cost) and to maintain it (recurrent implementation cost). These costs cannot be assessed and will be determined in the project definition phase.</p> <p>Administrations will be called to update its contents (recurrent implementation cost) but this cost is expected to be negligible.</p>
A.1.a	<p><u>Sustainability</u></p> <p>Reduce wholesale caps to 2 eur/GB; 2.2 eur-cents /min; 0.4 eur-cents/ SMS.</p>	<p>No additional costs, compared to the baseline.</p>
A.1.b	<p>Encourage trading roaming traffic in a non-discriminatory/ anonymous manner, with the aim to promote competition at wholesale level.</p>	<p>Estimated costs are 0.5 person days per year for the operators (administrative) and 1 person day per year for the administrations (monitoring).</p>

**Table 1: II. Overview of costs for the preferred option**

II. Overview of costs – Preferred option			
	Citizens/Consumers	Businesses (operators)	Administrations

		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
B.1.a	Direct costs	None	None	Negligible	None	None	None
	Indirect costs	None	None	None	None	None	None
B.1.b	Direct costs	None	None	None	None	None	None
	Indirect costs	None	None	None	Increased data consumption	None	None
B.3.a	Direct costs	None	None	Negligible	None	None	None
	Indirect costs	None	None	None	None	None	None
B.3.b	Direct costs	None	None	Update all wholesale agreements	0.5 person days/ year	None	1 person days/ year
	Indirect costs	None	None	None	None	None	None
B.3.c	Direct costs	None	None	Amend billing system	Absorb wholesale cost	None	1 person days
	Indirect costs	None	None	None	None	None	None
B.2.a	Direct costs	None	None	2 person days	None	None	None
	Indirect costs	None	None	None	None	None	None
C.1.a	Direct costs	None	None	None	0.5 person days/ year	None	1 person day/ year
	Indirect costs	None	None	None	None	None	None
A.1.a	Direct costs	None	None	None	None	None	None
	Indirect costs	None	None	None	None	None	None
A.1.b	Direct costs	None	None	None	0.5 person days/ year	None	1 person day/ year
	Indirect costs	None	None	None	None	None	None
C.2.a	Direct costs	None	None	None	None	Develop database	Maintain & update DB
	Indirect costs	None	None	None	None	None	None
C.2.a	Direct costs	None	None	None	0.5 person days/ year	None	1 person day/ year
	Indirect costs	None	None	None	None	None	None