

'Roam like at home' by default

SUMMARY

The end of roaming costs within the EU – promised at the political level for over a decade – seems near. Four successive regulations decreased (but did not end) roaming charges for calls, text messages and data by more than 90 %. In 2015, the Council of the EU and the European Parliament agreed on abolishing roaming charges in the EU from 15 June 2017. After that date, the 'roam-like-at-home' (RLAH) system should become a reality for all European citizens travelling within the EU.

Before RLAH is fully implemented, an agreement has to be reached on: a regulation on wholesale roaming markets, which reviews the prices that operators charge each other. The Parliament's Committee on Industry, Research and Energy (ITRE), in charge of the proposed wholesale roaming markets regulation, has suggested a substantive reduction of the data roaming caps proposed by the Commission, while the Council has suggested in its general approach an increase to the proposed wholesale roaming cap. Trilogue negotiations, started on 14 December 2016, will have to find an agreement by early 2017 to meet the deadline. A related Commission implementing act, which defines a 'fair use policy' (FUP) for operators with a view to avoiding 'permanent roaming' and other abuses was adopted by the Commission on 15 December 2016, with significant changes from its earlier draft.

While consumers look forward to the prospect of free roaming, small and large telecom operators are worried about recovering their costs at the wholesale level. They also fear that RLAH will bring disruption to competition dynamics and infrastructure investments. The Commission review shows that there is still too much fragmentation in the digital single market (DSM), which poses many challenges.

Policy-makers have to deal with the complex trade-offs that RLAH involves, such as having to balance between protecting consumer interests, keeping political promises and realising the DSM, while promoting competition and investments and preventing market distortions.



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Achievements to date

The European Commission, the European Parliament and the Council of the EU have made the abolition of roaming charges (that is, surcharges paid by consumers for using their mobile phones in another EU Member State) one of their key priorities and consider it a step towards the establishment of the [digital single market](#) (DSM). European roaming practice has been regulated four times over the last decade, with each regulation introducing binding maximum retail and wholesale roaming caps to address the high roaming prices. The EU imposed wholesale and retail price caps for calls (the Eurotariff) in the [2007 Roaming Regulation](#), for calls and text messages (SMS) in the [2009 Roaming Regulation](#), and for calls, SMS and data retail prices in the [2012 Roaming Regulation](#). In 2015, the Parliament and the Council adopted the fourth of the series, [Roaming Regulation 2015/2120](#) (also known as part of the connected continent legislative package and the Telecom Single Market (TSM) Regulation), which entered into force on 29 November 2015. This regulation not only introduced further reductions in roaming caps as from 30 April 2016, but also the abolition of roaming retail surcharges in the EU as from 15 June 2017. After that date, no roaming surcharges should be levied for 'periodic travel' in the EU, and its citizens will be able to enjoy RLAH services across its territory.

Since the introduction of the 2007 Roaming Regulation, roaming prices have decreased by more than [90 %](#) for calls, SMS and data. The [benchmarking data](#) reports for the period 2007-2015, drawn up by the Body of European Regulators for Electronic Communications (BEREC), show that the evolution of both retail and wholesale prices has been very closely aligned to the retail and wholesale price caps set by the different EU roaming regulations. In reply to a [question](#) by a Member of the European Parliament (MEP), the Commission specified that the total savings for EU consumers from the reduction of roaming charges had been estimated at €9.6 billion for the 2009-2013 period. Only a decade ago, roaming represented a lucrative business for the industry, and there were extreme cases of 'bill shocks' – bills amounting to thousands of euros – which prompted customers to turn their mobile phones off while abroad. To protect consumers against excessive roaming bills, the 2012 Roaming Regulation capped the price for the volume of roaming data at €50. Yet, the Commission has estimated that, because they do not understand roaming charges or consider them too expensive, [over half of roamers](#) do not turn on data services and use Wi-Fi facilities or other affordable solutions instead. Thus, the end of roaming charges is expected to bring an increase in the number of consumers using their mobile phones when travelling abroad in another EU Member State.

The Commission has highlighted that there are still wide differences¹ among Member States with regard to what mobile retail offers include in terms of price, variety of services (for instance, unlimited data offers), cost of services provision, travel patterns and amount of mobile data traffic. This market fragmentation implies that a common RLAH policy applicable to all Member States will bring many challenges and will require compromises to be found. In fact, according to a recent Parliament [study](#), the very existence of the roaming regulations is an indicator that the EU regulatory framework has not led to the extensive development of pan-European and borderless telecom services in the DSM. However, the end of roaming will be a much desired step towards the DSM, and is also needed for the development of advanced services across the EU, such as connected cars and the 'internet of things'.²

The latest steps

Even though the end of roaming was agreed in 2015, 'it is not a done deal yet', as Commission Vice-President Andrus Ansip told the Parliament at the October 1 2016 [plenary](#). For it to be effective as of 15 June 2017, a regulation establishing the level of wholesale charges that operators can charge each other for using each other's network from 15 June 2017 needs to be adopted in early 2017, as set out in Roaming Regulation 2015/2120.

The Roaming Regulation 2015/2120 also mandated the Commission to develop, after consulting with BEREC, detailed rules on a 'fair use policy' (FUP) to help operators prevent abusive or anomalous usage of the RLAH system. This related Commission [implementing act](#) was adopted on 15 December 2016, and the final text demonstrates a significant change in scope from the Commission.

The wholesale market review

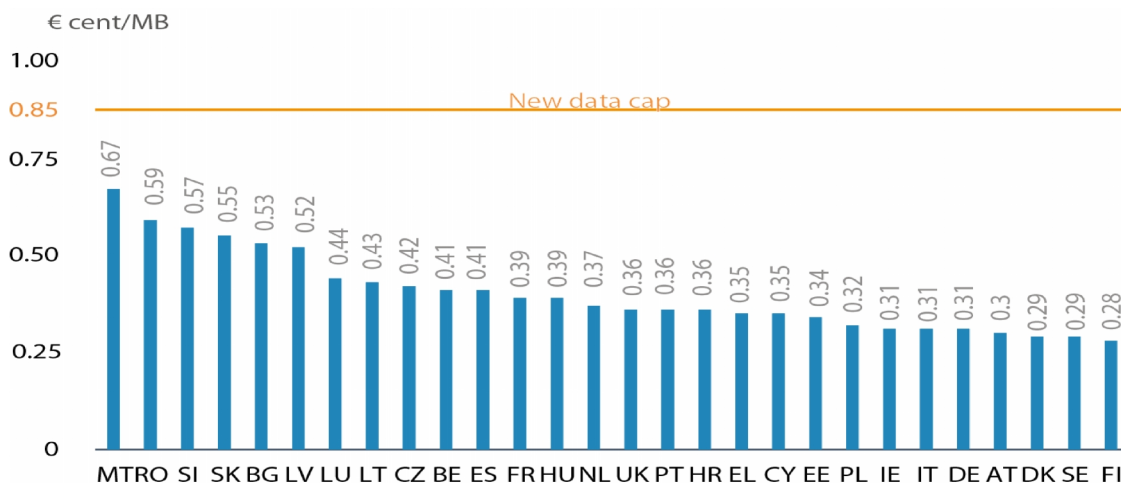
The EU mobile communications market remains fragmented, with no single mobile network covering all Member States. In order to provide mobile services to their customers when travelling within the EU, roaming providers have to purchase wholesale roaming services from, or exchange wholesale roaming services with, operators in another Member State. Roaming Regulation 2015/2120 asked the Commission to review the wholesale roaming markets and make appropriate proposals before 15 June 2016. This was stressed by the Parliament in its resolution [Towards a digital single market act](#) (2015/2147 (INI)) of 19 January 2016, calling for a timely wholesale review to deliver the end of roaming charges for all European consumers by 15 June 2017. Similarly, in its [conclusions](#) from 28 June 2016, the European Council called for a swift review of the wholesale roaming market, with a view to abolishing roaming surcharges by June 2017.

As a result of the review,³ the Commission published [a proposal](#) for a regulation amending Regulation (EU) No 531/2012 as regards rules for wholesale roaming markets on 15 June 2016. One conclusion the Commission drew here is that EU markets are not sustainable, as the fees operators charge each other are very high. Another is that the current wholesale caps are too high to enable the sustainable introduction of RLAH. It therefore proposed to reduce them further, to €0.04 per minute of calls made, €0.01 per SMS and €0.0085 per megabyte of data transmitted as of 15 June 2017. It offered operators the possibility to sign a wholesale agreement with each other, in order to waive the application of maximum wholesale caps. However, small operators often do not have the leverage to negotiate prices down and end up paying the wholesale regulated cap. This might endanger their domestic business models, which tend to be the most competitive for them. A Commission [study](#) shows that in around 90 % of cases, new entrants offer the most competitive prices in all types of broadband baskets, compared to incumbents.

Parliament's Committee on Industry, Research and Energy (ITRE) (rapporteur: Miapetra Kumpula-Natri, S&D, Finland) in charge of the file, issued a [draft report](#) in September 2016 and voted on it on 29 November. The report calls for a lowering of the Commission data caps, precisely to avoid a situation in which alternative operators offering the most competitive offers would be unable to afford to offer RLAH to their clients. In place of the Commission's proposed single wholesale price cap for data (€8.50 per gigabyte⁴) for a five-year period, the report proposes a wholesale data cap of €4 per gigabyte. This price would also decrease on a yearly basis (that is, follow a 'glide path'⁵), to take account of the falling unit price of data. The rapporteur argues that to remain in line with consumers'

usage in the long run, data caps should decrease over time. It also argued that the Commission-proposed wholesale data roaming cap of €8.50 per gigabyte is much higher than both domestic retail data prices and real wholesale costs across all Member States.

Figure 1 – Estimated wholesale data costs including transit costs



Source: European Commission, [SWD\(2016\) 200](#).

According to some [industry analysts](#), the Commission's proposed wholesale data roaming cap of €8.50 per gigabyte is higher than the domestic fully allocated retail price per gigabyte charged in 90 % of 4G data-only tariffs sold across the EU-28. They argue that if European consumers were to use, while roaming in the EU, just 60 % of their domestic gigabyte volume allowance, the wholesale data roaming cost (assuming it were €8.50 per gigabyte) would exceed half of the domestic monthly retail tariff fee in the majority of mobile data-only plans. For Nordic countries with a high consumption of mobile data, this may be particularly problematic. If wholesale charges are set too high, smaller operators could be forced to increase domestic prices and remove 'unlimited mobile broadband' offers from the market, so as to be able to recover their costs for providing roaming retail and wholesale services. This price-increase phenomenon is known as a 'waterbed effect'.

Stakeholders have reacted in different ways. While [consumers](#), small operators⁶ and operators in Nordic countries (where unlimited mobile data offers are common) want lower wholesale data caps, others, mainly [large operators](#), want to make sure that the caps are high enough to recover all of their costs and also allow them to invest in their networks. In particular, countries with a lot of incoming traffic from tourists argue that they need to invest in capacity, to allow the additional roaming traffic on their networks. However, some [research](#) shows⁷ that, as mobile data traffic grows and new technologies become widespread, the unit cost per megabyte of traffic carried declines. In the meantime, Commission Vice-President Andrus Ansip said at the Parliament's [plenary session](#) on 4 October 2016 that there is indeed room for diminishing the wholesale caps proposed by the Commission. The issue has also been discussed at the Council, which agreed a general approach on 2 December 2016. The Council proposed to start from higher data caps than those proposed by the Commission and ITRE: starting at €0.01/MB (€10/GB) in mid-June 2017, but decreasing gradually to €0.005/MB (€5/GB) by mid-2021. On the other hand, it proposed to slightly lower the caps for calls (€0.0353/min as opposed to €0.04/min) and to leave the Commission-proposed cap for text messages (€0.01/ message).

In Finland, high demand correlates with low prices

[CISCO forecasts](#) predict that the average smartphone will generate 4.4 gigabytes of traffic per month by 2020, nearly a fivefold increase over the 2015 average of 929 megabytes per month in the EU. However in Finland, where unlimited mobile data offers are common, domestic per-capita mobile data usage has reached [14 gigabytes per month](#). Recent [research](#) shows that €30 can buy a consumer 100 times more data use for their smartphone in Finland than in Hungary. According to the [Commission](#), this difference is too large and more competition and affordable prices would be desirable in the EU.

The Commission's U-turn on fair use policy

Roaming Regulation 2015/2120⁸ mandated the Commission to develop, after consulting with BEREC, detailed rules on a 'fair use policy' (FUP) to help operators prevent abusive or anomalous usage of the RLAH system. To be introduced through implementing measures, these rules would set out the limits that operators can place on their customers' entitlement to roam-like-at-home during periodic travel. The rules would also establish the methodology for a 'sustainability mechanism', to ensure that operators can recover all their costs for providing regulated roaming services and to avoid putting their domestic business models at risk. This has proved controversial, given that the Commission has published two separate draft implementing acts within a month of each other, with the second (and finally adopted) one having very different scope from the first.

The initial proposal for rules on FUP was published on 5 September 2016. It limited 'periodic travel' to 90 days in a calendar year and to a maximum of 30 consecutive days, after which regulated roaming charges would apply. In a [joint statement](#) the two Commissioners responsible said that this was a lot more than the 12 days on average that Europeans travel in a year, and so in practice 99 % of European travellers would be covered. This time-limit was strongly criticised by [consumer organisations](#) and by [MEPs](#). Only two days later, the FUP draft was withdrawn on the instruction of Commission President Jean- Claude Juncker. In his [State of the Union speech](#) of 14 September, he clarified that the proposal would be reviewed to allow for real abolition of roaming as promised, with no time limits. The draft, he said, had 'missed the point of what was promised'.

The Commission's hasty withdrawal of its draft was highly unusual. According to transparency requirements, stakeholders such as the telecoms industry, consumer groups and national regulators should have had four weeks to comment on the draft.

On 26 September 2016, the Commission published a [second FUP draft](#)-implementing act defining the guidelines for operators' fair-use rules, which was since adopted on 15 December 2016. This new version was immediately presented to the ITRE Committee for its feedback and was a complete departure from its predecessor, in that the Commission did not define any time or volume limits for 'periodic travel'. It went even further, adding the principle of 'residence or stable links' that European consumers, such as commuting workers, ex-pats or Erasmus students, may have with an EU Member State that is not their home. Hence, in addition to travellers, Europeans with 'stable links' in another Member State could also benefit from RLAH.

In order to prevent abuse in the form of 'permanent roaming' (persons purchasing a contract in a Member State where rates are comparatively cheap and then using it in another Member State) and in other forms, the Commission included a provision in the

FUP allowing operators to check consumer usage patterns to track any misuse, subject to certain criteria being met. Under three scenarios,⁹ operators would have to alert their users and in the case of abuses they would be able to impose surcharges up to a maximum of the wholesale roaming caps to be agreed under [the wholesale market regulation proposal](#)). If a dispute arises, the customer may complain to the national regulatory authority (NRA) to settle the case. Mass purchase and resale of SIM cards for permanent use outside the country of the operator issuing them can also constitute an abuse. In such cases, the operator will be allowed to take immediate action after informing the NRA.

Reactions to the second FUP draft have also been divided: while it has mostly been welcomed by [consumers](#) and by MEPs, mobile operators (both small and large) and BEREC have voiced concerns. During the [presentation](#) of the new draft to the ITRE Committee on 26 of September, MEPs welcomed it but stressed the need to further clarify FUP in the implementing act.¹⁰ In its own input regarding the proposed draft, [BEREC](#) also asked for further clarification and raised the question whether it is in line with the legal basis in Roaming Regulation 2015/2120. The regulation clearly grants customers access to RLAH within certain limits, whereas the draft implementing regulation did not include any limits. Thus, BEREC suggested including a volume limit for unlimited data offers. BEREC is also generally concerned about the risk of a disharmonised application of the FUP and of the sustainability mechanism (see box below).

The Sustainability Mechanism

RLAH could potentially undermine some roaming providers' domestic charging models, whereby they would not be able to recover all of their costs from providing regulated roaming services from the revenue they generate. Thus, as set out in Roaming Regulation 2015/2120, the implementing act also provides the possibility for such operators to apply a surcharge if authorised by the NRA. The aim is to ensure the sustainability of their domestic charging model (the Commission proposed the maximum would be the wholesale roaming caps to be agreed under [the wholesale market regulation proposal](#)). According to Commission estimates, only 2 % of operators would be affected by such a scenario. However, [BEREC](#) recently argued that this figure might be higher, as the Commission's calculations mainly included data from operators with large footprints, and were based on the assumption of 'periodic travelling' with time limits, while the second FUP draft proposed no time limits and also gave citizens with 'stable links' access to RLAH in the Member State where their 'stable links' are.

According to [some analysts](#), roaming represents a very small proportion (about 5 %) of operators' revenues at present, and therefore the end of roaming is not expected to bring a big loss in profits, except to operators which cannot recover their wholesale costs and might apply the sustainability clause. Some [operators argue](#) that if they had to apply this clause it would be commercially unviable for their customers.

Industry associations, such as the European Network Telecom Operators (ETNO) and GSMA, published a [joint statement](#), where like BEREC, they emphasised the need for a limit at least in 'volume terms'. Similarly, the association of independent Mobile Virtual Network Operators, [MNVO Europe](#), fears a lack of coherence between the regulatory obligations at retail level (that is, if the adopted FUP rules do not impose a limit on the duration or volume) and the underlying economics for operators at the wholesale level (that is, the Commission-proposed wholesale roaming data caps in the draft regulation [COM\(2016\) 399](#)). MNVO Europe wants to protect alternative operators offering the most competitive offers from 'margin squeeze' situations, and asks for the wholesale market data caps to be further reduced.

According to [the Commission](#) the adopted text further clarifies the concept of a 'stable link', and consumer rights but it also sets a limit for unlimited data caps, unlike previously proposed.¹¹ This is meant to avoid waterbed effects, and to ensure that competitive domestic data offers remain attractive.

Next steps

Work on the proposal on the wholesale roaming regulation is advancing fast: MEPs gave the rapporteur and Parliament's negotiating team a mandate to start trilogue negotiations with the Council in order to come to an agreement. The Slovak Presidency of the Council scheduled the first trilogue talks with the Parliament for 14 December 2016.

The Commission's final FUP implementing act, [Regulation 2016/2286](#) was adopted on 15 December 2016, following a vote on 12 December 2016 of the Member States' representatives. The final FUP [implementing act](#) has considered stakeholders' and BEREC's [feedback](#).

Thus, the last milestone for the end of roaming to happen as scheduled by 15 June 2017 is agreement on the wholesale roaming regulation. This requires the differing positions of the Council and Parliament to be reconciled, with the first wanting a higher starting data cap than what the Commission proposed, and the second insisting on a substantive reduction from the start.

Main references

[The wholesale roaming regulation, a precondition for roam like at home](#), EPRS, EU legislation in progress briefing, December 2016.

[Wholesale Roaming Markets](#), EPRS, Briefing Implementation Appraisal, September 2016.

[European single market for electronic communications](#), EPRS, At a glance, October 2015.

[The Review of the wholesale roaming markets and the Roaming Regulation](#), EPRS, Briefing Implementation Appraisal, May 2016.

Georgios Petropoulos and J. Scott Marcus, [Challenging prospects for roam like at home](#), Bruegel working paper, June 15th, 2016.

M. Van der Wee, J. Spruytte, M. De Regt, S. Verbrugge, [International roaming in the EU: historic overview, challenges, opportunities and solutions](#), 22 March 2016.

Endnotes

¹ See the Commission's report accompanying the review of the wholesale roaming market [SWD\(2016\) 200](#). Section 3.2 'Evolution of wholesale and retail roaming prices'.

² See BEREC's Report on Enabling the Internet of Things [BoR \(16\) 39](#).

³ For the review, the Commission carried out a [public consultation](#), commissioned a [study on the assessment of the cost of providing wholesale roaming services in the EU](#) and considered a [report](#) from BEREC.

⁴ Note that the report proposes to refer only to gigabytes and not to megabytes.

⁵ On 1 July 2018, a decrease to €3 per gigabyte of data transmitted, on 1 July 2019 – to €2 per gigabyte of data transmitted and, without prejudice to Article 19, on 1 July 2020 – to €1 per gigabyte of data transmitted. It shall remain at €1 per gigabyte of data transmitted until 30 June 2022.

⁶ See, for instance, the positions of European consumer association [BEUC](#), several [Swedish operators](#) and [MNVOs Europe](#).

⁷ See [Bringing down the cost of mobile data traffic: investing in new technologies and more spectrum](#), Analysis Mason, 2013.

⁸ See Article 6b, 6c and 6d of [Roaming Regulation 2015/2120](#).

⁹ (1) If a customer uses their SIM card almost exclusively for roaming rather than for domestic use; (2) if a customer's given SIM card remains inactive for long periods of time and is the one they mostly use while roaming; and (3) if a customer has a subscription and makes sequential use of multiple SIM cards while roaming.

¹⁰ Since then, the Commission has provided a [written reply](#) to all MEPs' questions posed at that meeting.

¹¹ See the [Commission Implementing Regulation \(EU\) 2016/2286](#), Article 4(2).

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