



2021/0045(COD)

25.5.2021

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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council
on Roaming on public mobile communications networks within the Union
(recast)
(COM(2021)0085 – C9-0085/2021 – 2021/0045(COD))

Committee on Industry, Research and Energy

Rapporteur: Angelika Winzig

(Recast – Rule 110 of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on Roaming on public mobile communications networks within the Union (recast) (COM(2021)0085 – C9-0085/2021 – 2021/0045(COD))

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2021)0085),
 - having regard to Article 294(2) and Article 173(3) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0085/2021),
 - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of (...)¹,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts²,
 - having regard to the letter of xx Xxxx 20xx sent by the Committee on Legal Affairs to the Committee on Industry, Research and Energy in accordance with Rule 110(3) of its Rules of Procedure,
 - having regard to Rules 110, 59 and 40 of its Rules of Procedure,
 - having regard to the opinion of the Committee on the Internal Market and Consumer Protection,
 - having regard to the report of the Committee on Industry, Research and Energy (A9-0000/2021),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;
1. Adopts its position at first reading hereinafter set out, taking into account the

¹ OJ C ...

² OJ C 77, 28.3.2002, p. 1.

recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) As Regulation (EU) No 531/2012 expires on 30 June 2022, the aim of this Regulation is to recast it while introducing new measures to increase transparency, including on the use of value added services in roaming and ensure a genuine RLAH experience in terms of quality of service and access to emergency services while roaming. The duration of this new Regulation is set for 10 years, until 2032, to provide certainty in the market and minimise regulatory burden while introducing a ***mechanism for intervening at wholesale level in the interim*** if market developments so require.

Amendment

(4) As Regulation (EU) No 531/2012 expires on 30 June 2022, the aim of this Regulation is to recast it while introducing new measures to increase transparency, including on the use of value added services in roaming and ensure a genuine RLAH experience in terms of quality of service and access to emergency services while roaming. The duration of this new Regulation is set for 10 years, until 2032, to provide certainty in the market and minimise regulatory burden while introducing a ***review accompanied by a legislative proposal*** if market developments so require.

Or. en

Justification

We propose a slight change of this recital to make it coherent with our suggestions for Articles 21, 22 and 23.

Amendment 2

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) In order to allow for the development of a more efficient, integrated

Amendment

(14) In order to allow for the development of a more efficient, integrated

and competitive market for roaming services, there should be no restrictions preventing undertakings from effectively negotiating wholesale access for the purpose of providing roaming services. Obstacles to access to such wholesale roaming services, due to differences in negotiating power and in the degree of infrastructure ownership of undertakings, should be removed. To that end, wholesale roaming access agreements should respect the principle of technology neutrality and ensure all operators an equal and fair opportunity to accessing all networks and technologies available and be negotiated in good faith allowing the roaming provider to offer retail roaming services equivalent to the services offered domestically. Mobile virtual network operators (MVNOs) and resellers of mobile communication services without their own network infrastructure typically provide roaming services based on commercial wholesale roaming agreements with their host mobile network operators in the same Member State. Commercial negotiations, however, may not leave enough margin to MVNOs and resellers for stimulating competition through lower prices. The removal of those obstacles and balancing the negotiation power between MVNOs/resellers and mobile network operators by an access obligation and wholesale caps should facilitate the development of alternative, innovative and Union-wide roaming services and offers for customers. Directive (EU) 2018/1972 does not provide for a solution to this problem via the imposition of obligations on operators with significant market powers.

and competitive market for roaming services, there should be no restrictions preventing undertakings from effectively negotiating wholesale access for the purpose of providing roaming services. Obstacles to access to such wholesale roaming services, due to differences in negotiating power and in the degree of infrastructure ownership of undertakings, should be removed. To that end, wholesale roaming access agreements should respect the principle of technology neutrality and ensure all operators an equal and fair opportunity to accessing all networks and technologies available and be negotiated in good faith allowing the roaming provider to offer retail roaming services equivalent to the services offered domestically. ***However, this Regulation should not limit the possibility to conclude wholesale access with only those operators that have the most advanced networks. Operators should have the possibility to negotiate their wholesale roaming agreements according to their commercial needs. Therefore, this Regulation does not oblige operators to change their current roaming partners if they do not offer 5G or other advanced services for their roaming customers yet. This is without prejudice to the quality of service requirements laid down in this Regulation.*** Mobile virtual network operators (MVNOs) and resellers of mobile communication services without their own network infrastructure typically provide roaming services based on commercial wholesale roaming agreements with their host mobile network operators in the same Member State. Commercial negotiations, however, may not leave enough margin to MVNOs and resellers for stimulating competition through lower prices. The removal of those obstacles and balancing the negotiation power between MVNOs/resellers and mobile network operators by an access obligation and wholesale caps should facilitate the development of alternative, innovative and Union-wide roaming services and offers for customers. Directive (EU) 2018/1972

does not provide for a solution to this problem via the imposition of obligations on operators with significant market powers.

Or. en

Amendment 3

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) In accordance with Article 109 of Directive (EU) 2018/1972, all end-users should have access to emergency services, free of charge, through emergency communications to the most appropriate public safety answering point (PSAP). Member States are also required to ensure that access for end-users with disabilities to emergency services is available through emergency communications and is equivalent to that enjoyed by other end-users. It is for the Member States to determine the type of emergency communications that are technically feasible to ensure roaming customers access to emergency services. In order to ensure that roaming customers have access to emergency communications under the conditions laid down in Article 109 of Directive (EU) 2018/1972, visited network operators should inform the roaming provider through the wholesale roaming agreement about what type of emergency communications are mandated under national measures in the visited Member State. In addition, wholesale roaming agreements should include information on the technical parameters for ensuring access to emergency services, including for roaming customers with disabilities, as well as for ensuring the transmission of caller location information to the most appropriate PSAP in the visited Member State. Such information should allow the roaming provider to identify and provide the emergency communication and the

Amendment

(19) In accordance with Article 109 of Directive (EU) 2018/1972, all end-users should have access to emergency services, free of charge, through emergency communications to the most appropriate public safety answering point (PSAP). Member States are also required to ensure that access for end-users with disabilities to emergency services is available through emergency communications and is equivalent to that enjoyed by other end-users. It is for the Member States to determine the type of emergency communications that are technically feasible to ensure roaming customers access to emergency services. In order to ensure that roaming customers have access to emergency communications under the conditions laid down in Article 109 of Directive (EU) 2018/1972, visited network operators should inform the roaming provider through the wholesale roaming agreement about what type of emergency communications are mandated under national measures in the visited Member State. In addition, wholesale roaming agreements should include information on the technical parameters for ensuring access to emergency services, including for roaming customers with disabilities, as well as for ensuring the transmission of caller location information, ***including handset-derived information***, to the most appropriate PSAP in the visited Member State. Such information should allow the roaming provider to identify and provide

transmission of caller location free of charge.

the emergency communication and the transmission of caller location free of charge.

Or. en

Justification

Emergency caller location is vital to PSAPs and first responders. Developments in location technologies and the proliferation of smartphones are leading to improved location information being available in the handset. Making such handset derived location information available to PSAPs during emergency communications in a secure and reliable manner can literally save lives.

Amendment 4

Proposal for a regulation

Recital 28

Text proposed by the Commission

(28) Roaming customers should, to the greatest extent possible, be able to use the retail services that they subscribe to and benefit from the same level of quality of service as at home, when roaming in the Union. To that end, roaming providers should take the necessary measures to ensure that regulated retail roaming services are provided under the same conditions as if such services were consumed domestically. In particular, the same quality of service should be offered to customers when roaming, if technically feasible.

Amendment

(28) Roaming customers should, to the greatest extent possible, be able to use the retail services that they subscribe to and benefit from the same level of quality of service as at home, when roaming in the Union. To that end, roaming providers should take the necessary measures to ensure that regulated retail roaming services are provided under the same conditions as if such services were consumed domestically. In particular, the same quality of service should be offered to customers when roaming, if technically feasible. ***BEREC should update its retail guidelines regarding the implementation of the quality of service measures in order to contribute to the consistent application of this Regulation.***

Or. en

Justification

See justification in Article 5 (2) of this Regulation

Amendment 5

Proposal for a regulation

Recital (29)

Text proposed by the Commission

(29) Roaming providers should be able to apply a ‘fair use policy’ to the consumption of regulated retail roaming services provided at the applicable domestic retail price. The ‘fair use policy’ is intended to prevent abusive or anomalous usage of regulated retail roaming services by roaming customers, such as the use of such services by roaming customers in a Member State other than that of their domestic provider for purposes other than periodic travel. Roaming providers should, in cases of force majeure caused by circumstances such as pandemics or natural catastrophes which involuntarily extend the period of temporary stay of the roaming customer in another Member State, **consider extending** the applicable fair use allowance for an appropriate period, upon a justified request by the roaming customer. Any fair use policy should enable the roaming provider’s customers to consume volumes of regulated retail roaming services at the applicable domestic retail price that are consistent with their respective tariff plans.

Amendment

(29) Roaming providers should be able to apply a ‘fair use policy’ to the consumption of regulated retail roaming services provided at the applicable domestic retail price. The ‘fair use policy’ is intended to prevent abusive or anomalous usage of regulated retail roaming services by roaming customers, such as the use of such services by roaming customers in a Member State other than that of their domestic provider for purposes other than periodic travel. Roaming providers should, in cases of force majeure caused by circumstances such as pandemics or natural catastrophes which involuntarily extend the period of temporary stay of the roaming customer in another Member State, **extend** the applicable fair use allowance for an appropriate period, upon a justified request by the roaming customer. Any fair use policy should enable the roaming provider’s customers to consume volumes of regulated retail roaming services at the applicable domestic retail price that are consistent with their respective tariff plans.

Or. en

Amendment 6

Proposal for a regulation

Recital 50 a (new)

Text proposed by the Commission

Amendment

(50a) Union citizens still face very high roaming fees when using mobile connections in third countries. In particular, citizens and businesses in external border regions would benefit greatly from roaming provisions with neighbouring countries similar to those in

the Union. The Commission is therefore encouraged to include RLAH provisions in future international agreements with third countries, in particular those directly bordering the Union.

Or. en

Justification

Especially citizens and businesses in border regions would benefit from international agreements on roaming.

Amendment 7

Proposal for a regulation
Recital 53

Text proposed by the Commission

(53) Number ranges, including those used for value added services, are set in the national numbering plans and are not harmonised at Union level. Operators may therefore not be able to recognise the numbering ranges for value added services in all countries in advance. Numbering ranges used for value added services are subject to particular pricing conditions at the national level and in many cases their termination rates are not regulated. While this is understood to roaming providers, the level of the wholesale charges they will incur may still be unexpectedly high. In a roaming scenario, operators are unable to address this issue, because they lack information on number ranges used for value added services throughout the Union. To address this problem BEREC should establish and maintain a single Union-wide, secure database for value added services' numbering ranges. The database is intended as a transparency tool that will enable National Regulatory Authorities (NRAs) and operators to have direct access to information about which numbering ranges can generate higher costs (termination rates) in all Member States. It represents a necessary intermediate step to

Amendment

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increase transparency at retail level as it **could** be used to inform roaming customers about the types of services that may be subject to increased charges when roaming. BEREC should establish the procedures by which the competent authorities are to provide and update the information requested under Article 17.

increase transparency at retail level as it **should** be used to inform roaming customers about the types of services that may be subject to increased charges when roaming. BEREC should establish the procedures by which the competent authorities are to provide and update the information requested under Article 17.

Or. en

Amendment 8

Proposal for a regulation Recital 53 a (new)

Text proposed by the Commission

Amendment

(53a) BEREC should establish and maintain a single Union-wide database containing the means of access to emergency communications that are mandated in each Member State. The database is intended to provide transparency to enable NRAs and operators to have direct access to information about how to access emergency communication through means other than telephone calls in all Member States. It represents a necessary intermediate step towards an increase in transparency at retail level and should be used to inform roaming customers about alternative ways to access emergency communications. BEREC should establish the procedures by which the competent authorities are to provide and update the information requested pursuant to this Regulation.

Or. en

Amendment 9

Proposal for a regulation Recital 59

Text proposed by the Commission

Amendment

(59) It is necessary to monitor and to

(59) It is necessary to monitor and to

review regularly the functioning of wholesale roaming markets and their interrelationship with the retail roaming markets, taking into account competitive and technological developments and traffic flows. The Commission should submit *two* reports to the European Parliament and to the Council. In its biennial reports, the Commission should, in particular, assess whether RLAH has any impact on the evolution of tariff plans available on the retail markets. That should include, on the one hand, an assessment of any emergence of tariff plans that include only domestic services and that exclude retail roaming services altogether, thus undermining the very objective of RLAH and, on the other, an assessment of any reduction in the availability of flat-rate tariff plans, which could also represent a loss for consumers and undermine the objectives of the digital single market. The Commission's reports should, in particular, analyse the extent to which exceptional retail roaming surcharges have been authorised by national regulatory authorities, the ability of home network operators to sustain their domestic charging models and the ability of visited network operators to recover the efficiently incurred costs of providing regulated wholesale roaming services. In addition, the Commission's reports should assess how, at wholesale level, access to the different network technologies and generations is ensured; the level of usage of trading platforms and similar instruments to trade traffic at wholesale level; the evolution of the machine-to-machine roaming; the persisting problems at retail level in relation to value added services and the application of the measures on emergency communications . In order to enable such reporting with a view to assessing how the roaming markets adapt to RLAH rules, sufficient data should be gathered on the functioning of those markets after the implementation of those rules.

review regularly the functioning of wholesale roaming markets and their interrelationship with the retail roaming markets, taking into account competitive and technological developments and traffic flows. The Commission should submit *biennial* reports to the European Parliament and to the Council. In its biennial reports, the Commission should, in particular, assess whether RLAH has any impact on the evolution of tariff plans available on the retail markets. That should include, on the one hand, an assessment of any emergence of tariff plans that include only domestic services and that exclude retail roaming services altogether, thus undermining the very objective of RLAH and, on the other, an assessment of any reduction in the availability of flat-rate tariff plans, which could also represent a loss for consumers and undermine the objectives of the digital single market. The Commission's reports should, in particular, analyse the extent to which exceptional retail roaming surcharges have been authorised by national regulatory authorities, the ability of home network operators to sustain their domestic charging models and the ability of visited network operators to recover the efficiently incurred costs of providing regulated wholesale roaming services. In addition, the Commission's reports should assess how, at wholesale level, access to the different network technologies and generations is ensured; the level of usage of trading platforms and similar instruments to trade traffic at wholesale level; the evolution of the machine-to-machine roaming; the persisting problems at retail level in relation to value added services and the application of the measures on emergency communications. ***Furthermore the Commission's reports should assess the impact of the roll-out and the implementation of new network technologies such as 5G as well as of the COVID-19-pandemic on the roaming market.*** In order to enable such reporting with a view to assessing how the roaming

markets adapt to RLAH rules, sufficient data should be gathered on the functioning of those markets after the implementation of those rules.

Or. en

Amendment 10

Proposal for a regulation Recital 62

Text proposed by the Commission

(62) In order to ensure that **the maximum wholesale charges are** based on recent and updated data, the **power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend the maximum wholesale charges that a visited network operator can levy on the roaming provider for the provision of regulated voice, SMS or data roaming services by means of that visited network.** This Regulation **should lay down the detailed criteria and parameters on the basis of which the values of those maximum wholesale charges are set. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁶⁹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.**

⁶⁹ OJ L 123, 12.5.2016, p. 1.

Amendment

(62) In order to ensure that **this Regulation is** based on recent and updated data, the Commission **should monitor closely the developments in** the roaming market as laid down in this Regulation. **When necessary and appropriate the biennial reports should be accompanied by a legislative proposal addressing any change of circumstances within the roaming market.**

⁶⁹ OJ L 123, 12.5.2016, p. 1.

Justification

See Justification in Article 21

Amendment 11**Proposal for a regulation
Article 3 – paragraph 1***Text proposed by the Commission*

1. Mobile network operators shall meet all reasonable requests for wholesale roaming access , in particular allowing the roaming provider to replicate the retail mobile services offered domestically, when technically feasible .

Amendment

1. Mobile network operators shall meet all reasonable requests for wholesale roaming access , in particular allowing the roaming provider to replicate the retail mobile services offered domestically, when technically feasible ***for the mobile network operator requested to provide access.***

Or. en

Justification

Operators should have the possibility to negotiate their wholesale roaming agreements according to their commercial needs. Therefore, this Regulation should not oblige operators to change their current roaming partners as there will be a limited time where some operators will already have 5G-infrastructure while others won't have.

Amendment 12**Proposal for a regulation
Article 5 – paragraph 2 a (new)***Text proposed by the Commission**Amendment*

2a. In order to contribute to the consistent application of this Article, BEREC shall, by ... [6 months after the entry into force of this Regulation], after consulting stakeholders and in close cooperation with the Commission, update its retail guidelines regarding the implementation of the quality of service measures.

Or. en

Amendment 13

Proposal for a regulation Article 8 – paragraph 5

Text proposed by the Commission

5. Implementing Regulation (EU) 2016/2286 shall continue to apply until the entry into force of a new implementing act adopted pursuant to paragraph 1.

Amendment

5. Implementing Regulation (EU) 2016/2286 shall continue to apply until the entry into force of a new implementing act adopted pursuant to paragraph ***with the objective of making the application of fair use policies in the Union more flexible and progressively phasing-out their application.***

Or. en

Amendment 14

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

1. The average wholesale charge that the visited network operator may levy on the roaming provider for the provision of regulated data roaming services by means of that visited network shall not exceed a safeguard limit of EUR **2,00** per gigabyte of data transmitted. That maximum wholesale charge shall decrease to EUR **1,50** per gigabyte of data transmitted on 1 January **2025** and shall, without prejudice to **Articles 21, 22 and 23** remain at EUR **1,50** per gigabyte of data transmitted until 30 June 2032 .

Amendment

1. The average wholesale charge that the visited network operator may levy on the roaming provider for the provision of regulated data roaming services by means of that visited network shall not exceed a safeguard limit of EUR **1,00** per gigabyte of data transmitted. That maximum wholesale charge shall decrease to EUR **0,80** per gigabyte of data transmitted on 1 January **2024**. ***On 1 January 2025 the maximum average wholesale charge shall decrease to EUR 0,60 per gigabyte*** and shall, without prejudice to **Article 21** remain at EUR **0,60** per gigabyte of data transmitted until 30 June 2032 .

Or. en

Justification

The level of wholesale roaming charges is a key determinant of the intensity of competition and a viable provision of roaming at domestic prices (RLAH) for all providers in the market. The caps proposed by the European Commission do not reflect market realities. The suggested wholesale charges are still too high and do neither reflect the expected average

annual growth rate of mobile data traffic nor the decreasing costs of operators for the provision of wholesale roaming services. Historically the parliament already agreed on the 1 Euro cap in the previous mandate for the year 2022.

Amendment 15

Proposal for a regulation Article 17 – title

Text proposed by the Commission

Database for numbers of value added service

Amendment

Database for numbers of value added service ***and means of access to emergency services***

Or. en

Amendment 16

Proposal for a regulation Article 17 – paragraph 1

Text proposed by the Commission

BEREC shall establish and maintain a single Union-wide database of value added services numbering ranges in each Member State ***to*** be made accessible for national regulatory authorities and operators. ***The database shall be established by 31 December 2023.*** To that end, the NRA or other competent authorities shall, by electronic means, provide the necessary information and the relevant updates to BEREC without undue delay.

Amendment

BEREC shall establish and maintain a single Union-wide database of value added services numbering ranges in each Member State ***and of means of access to emergency services through emergency communications mandated in each Member State. The database shall*** be made accessible for national regulatory authorities and operators ***from*** 31 December ***2022.*** To that end, the NRA or other competent authorities shall, by electronic means, provide the necessary information and the relevant updates to BEREC without undue delay.

Or. en

Amendment 17

Proposal for a regulation Article 21 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The Commission shall , after consulting BEREC, submit **two** reports to the European Parliament and to the Council. Where necessary, after submitting each report, the Commission shall **adopt a delegated act pursuant to Article 22 amending the maximum wholesale charges for regulated roaming services laid down in** this Regulation. The first such report shall be submitted by 30 June 2025 **and the second by 30 June 2029.**

Amendment

The Commission shall , after consulting BEREC, submit **biennial** reports to the European Parliament and to the Council. Where necessary, after submitting each report, the Commission shall **submit a legislative proposal to amend** this Regulation. The first such report shall be submitted by 30 June 2025.

Or. en

Justification

The biennial reporting and the possibility to review all aspects of the Regulation should be restored. In this fast developing market circumstances can change fast. Because of this the draft foresees the start of the reviews in 2025, so that the legislators could react fast, if the market changes significantly.

Amendment 18

Proposal for a regulation

Article 21 – paragraph 1 – subparagraph 2 – point i

Text proposed by the Commission

(i) the impact of the application of fair use policies by operators in accordance with Article 8, including the identification of any inconsistencies in the application and implementation of such fair use policies;

Amendment

(i) the impact of the application of fair use policies by operators in accordance with Article 8, including the identification of any inconsistencies in the application and implementation of such fair use policies **and the extent to which those policies are likely to be needed in the future.**

Or. en

Justification

The long-term goal should be to establish a transparent and homogenous market. If the market works well there is no need to keep the exception rules. It should be clear that the fair-use policies are just here as a temporary measure allowing the market to transition to a roaming-less reality.

Amendment 19

Proposal for a regulation

Article 21 – paragraph 1 – subparagraph 2 – point k a (new)

Text proposed by the Commission

Amendment

(ka) the impact of the COVID-19 pandemic and any similar crises

Or. en

Justification

As the pandemic is still ongoing, we do not know exactly how this will influence in the long-term the traveling patterns of European citizens. We want the Commission to take a close look into this matter and implement the conclusions in a possible new legislative proposal if the market changes significantly.

Amendment 20

Proposal for a regulation

Article 21 – paragraph 1 – subparagraph 2 – point k b (new)

Text proposed by the Commission

Amendment

(kb) the impact of the roll-out and of the implementation of new network technologies

Or. en

Justification

The roll-out of 5G just started in Europe. There is no reliable data on how the new network technologies will impact the cost structure of mobile network operators.

Amendment 21

Proposal for a regulation

Article 21 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

Those data shall be notified to the Commission at least ***once*** a year. The Commission shall make them public.

Those data shall be notified to the Commission at least ***twice*** a year. The Commission shall make them public.

Or. en

Justification

We propose this amendment to keep a finger on the pulse of the market.

Amendment 22

Proposal for a regulation

Article 22

Text proposed by the Commission

Amendment

Article 22

deleted

Revision of the maximum wholesale charges

The Commission shall, taking utmost account of the opinion of BEREC, adopt a delegated act in accordance with Article 23 to amend the maximum wholesale charges that a visited network operator can levy on the roaming provider for the provision of regulated voice, SMS or data roaming services by means of that visited network under Articles 10, 11 and 12.

To that end, the Commission shall:

- (a) comply with the principles, criteria and parameters set out in Annex I;***
- (b) take into account the current average wholesale rates charged across the Union and the need to leave appropriate economic space for the commercial market to evolve;***
- (c) take into account market information provided by BEREC, national regulatory authorities or, directly, by undertakings providing electronic communications networks and services.***

Or. en

Justification

We propose to delete this new article, because the review of the regulation should not be limited to the wholesale charges as the market develops fast and a proper review of all aspects will lead to a better law-making, especially in such uncertain times as we are experiencing now. Additionally a delegated act cannot change the essential elements of a piece of EU legislation and obviously the definition of wholesale charges for regulated data roaming services is an essential element of the Roaming Regulation.

Amendment 23

Proposal for a regulation Article 23

Text proposed by the Commission

Amendment

Article 23

deleted

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*
- 2. The power to adopt delegated acts referred to in Articles 21 and 22 shall be conferred on the Commission for an indeterminate period of time from 1 January 2025.*
- 3. The delegation of power referred to in Articles 21 and 22 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*
- 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.*
- 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*
- 6. A delegated act adopted pursuant to Article 21 and 22 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European*

Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by one month at the initiative of the European Parliament or of the Council.

Or. en

Justification

Not needed - see justification in article 22

Amendment 24

Proposal for a regulation Annex I

Text proposed by the Commission

Amendment

Criteria for the determination of maximum wholesale charges

deleted

Principles, criteria and parameters for the determination of maximum wholesale charges referred to in Article 22:

(a) the rates shall allow recovery of wholesale roaming costs incurred by an efficient operator in any Member State when offering the relevant, regulated wholesale service; the evaluation of efficient costs shall be based on current cost values; the cost methodology to calculate efficient costs shall be based on a bottom-up modelling approach using long-run incremental costs plus some allocation of joint and common costs (LRIC+) of providing the wholesale roaming services to third parties;

(b) The increment refers to the relevant part (service) of interest in the specific situation, here roaming services. The LRIC cost standard encompasses solely the elements needed to provide this specific service;

(c) The LRIC+ cost standard allows for including joint and common costs

which are relevant for other services;

(d) As network operators need to be able to recover joint and common costs to ensure long-term sustainability, joint and common costs are shared among the services that generate them and accordingly recovered by any price cap set above the estimated costs for those services;

(e) for mobile network operators, the minimum efficient scale shall be set at a market share not below 20 %;

(f) the relevant approach for asset depreciation shall be economic depreciation; and

(g) the technology choice of the modelled networks shall be forward looking, based on an IP core network, taking into account the various technologies likely to be used over the period of validity of the maximum rate.

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