



Department  
for Culture  
Media & Sport

**UK government response to EU consultation  
on the review of national roaming markets,  
fair use policy and the sustainability  
mechanism referred to in the Roaming  
Regulation 531/2012 as amended by  
Regulation 2015/2120**

*February 2016*

**The UK government welcomes the opportunity to respond to the European Commission's consultation on the review of national roaming markets, fair use policy and the sustainability mechanism. The UK vision for the digital single market is an open and flexible market with a regulatory framework that reflects the dynamic nature of the digital economy. It is a key priority for the UK, offering great potential to drive jobs and growth. The UK supports the Commission in delivering ambitious reforms with pace, which answer consumer and business demands for a reformed Europe.**

**The UK is committed to the end of surcharges for periodic roaming within the EU, according to the agreed timetable, and views it as an important achievement on the road towards a digital single market. It will be of significant benefit to consumers, citizens and businesses.**

This response does not answer the specific questions posed in the consultation, but instead sets out our views on the matters under consultation, in terms of the UK's key objectives for the end to roaming surcharges:

- **an effective implementation of the end to surcharges for roaming from 15 June 2017;**
- **the implementation of fair use policies that neither limit periodic roaming too tightly nor result in charges being levied after minimal use;**
- **a fair way to allow pre-pay consumers to roam;**
- **measures to prevent mobile operators from misusing the sustainability clause; and**
- **the formulation of a costing methodology for wholesale roaming that limits the impact on mobile operators.**

### **Review of national wholesale roaming markets**

This review is a key process that will enable new wholesale roaming price caps to be set that accurately reflect the true costs of providing roaming and provide a fair basis for the delivery of surcharge-free roaming across the EU.

The UK notes the thorough work conducted for DG Connect by TERA, (an international economic consulting firm), based on data contributed by the National Regulatory Authorities (NRAs) and a substantial number of EU mobile network operators. The UK believes that this work lays a solid foundation for a fully workable transition to surcharge-free roaming, which will be fair to operators in all Member States and which will benefit travellers from all Member States when they travel within the EU, enhancing the Digital Single Market.

The UK would like to see full transparency of the methodology, the key assumptions that were used and the calculations carried out by TERA, once it has concluded its work. However the UK believes that, to the extent that it has been explained publicly, the costing methodology proposed in the TERA work is capable of implementation and builds on the experience of the NRAs, as well as taking into account the submissions of the mobile network operators. The UK notes that the data provided by the operators is, with a few outliers, remarkably consistent and gives a degree of confidence at this stage that the final results will be applicable across all operators in all EU states.

In view of the rapidly increasing importance of and growth in data traffic, UK regards it as striking that the initial results from applying the TERA methodology give an EU average data cost of 0.42 cents per MB, which is less than 10% of the current capped wholesale data price (under the Roaming 3 Regulation) of 5 cents per MB.

With regard to the seasonality indices, the initial values coming out of the TERA methodology for data are very low for most Member States, averaging 0.02 cents per MB. However we note that, in a few Member States the seasonality is greater, for instance the group of three countries with an average seasonality of 0.11 cents per MB.

Seasonality effects are greater for voice; which may be a result of consumers' use of their mobile devices being skewed towards voice because, afraid of running up large bills for data, they switch off data roaming when abroad. Nevertheless, because of the low cost of voice calls already, UK does not regard this seasonality as a great problem. Taken altogether, at the technical level, the UK would suggest that the use of seasonality makes little difference and it is unnecessary to make any such adjustment for voice, data or texts.

The UK believes that the level of the capped wholesale rate should be set at or near the average data cost reported in the TERA work, in order to produce a workable solution.

### **Fair use policy**

If the markets for mobile communications across the EU were fully converged, fair use policies might be unnecessary, provided that the additional costs for operators in providing wholesale roaming services were minimal and the consumption of services was balanced between users roaming into and out from countries. However, we are not yet in this position and UK acknowledges that fair use policies are necessary to limit the exposure of operators to costs that

they are unable to recoup from users and to reduce the risk of driving up domestic tariffs for customers who do not roam (the 'waterbed' effect).

In particular, the issue of 'permanent' roaming (sometimes called arbitrage) must be addressed. This is when a user would be able to make savings by purchasing a SIM and mobile services from Country A, where such services are less expensive, but using the services mainly or substantially in Country B, where tariffs are higher, and benefiting from the surcharge-free roaming rate, which would be the same as the domestic tariff in Country A.

Therefore, UK believes that the imposition by operators of transparent and easily understandable fair use policies to prevent abusive or anomalous usage of regulated retail roaming services is appropriate, provided that these policies are subject to effective monitoring by NRAs. The policies must be appropriate for the tariffs in question, proportionate to the risk of arbitrage and follow the rules to be set down by the European Commission. The UK believes that, within the rules to be provided by the Commission, mobile operators are best placed to set fair use policies, which will reflect the national competitive environments for mobile services.

Nevertheless, the Commission and NRAs must take care that fair use policies are not simply used as a way to apply surcharges when users periodically roam within the EU. This must apply to all classes of users, whether they are on 'unlimited' post pay contracts, contracts with tighter limits to usage, or if they are pre-pay customers.

Initial work by BEREC on fair use policies examined combinations of days and volume of calls and data. However, there are a number of different models and variations on them, which BEREC will need to look at further, once it has the results of this consultation. The UK understands that, before the beginning of May, the Commission will seek BEREC's advice formally on fair use and sustainability, including draft implementing acts. The UK regards it as vital that the work is completed on time, so that the abolition of surcharges for roaming is not delayed.

### **Sustainability clause**

There is a possibility that the requirement to provide roaming at the same price as domestic calls, messages and data, could undermine the domestic charging models of some roaming providers, where they will not be able to recover all of the costs of providing regulated roaming services from the revenues generated. UK believes that this is likely to apply only to small operators.

Nevertheless, to ensure the sustainability of domestic charging models for all operators, UK is content that, in specific and exceptional circumstances, roaming providers for which this is the case may apply a surcharge. The surcharge must be subject to authorisation by the NRA and only be made to the extent necessary to recover those costs. The surcharge must not be imposed selectively on pre-pay customers.

The responsible NRA should review annually any 'sustainability surcharge' to ensure that it is still necessary, given the prevailing market conditions. Since operators will be required to report back annually, UK suggests that the monitoring be on the same basis. Monitoring across the EU should be conducted to ensure that the parameters for allowing sustainability charges are being consistently applied. BEREC and the Commission are best placed to conduct this monitoring.