COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT

Accompanying the

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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Executive Summary Sheet
Impact assessment on the review and extension of the Roaming Regulation (recast)

A. Need for action

What is the problem and why is it a problem at EU level?

Regulation (EU) No 531/2012 expires on 30 June 2022. **Without an extension of roaming rules, the benefits of 'roam like at home' (RLAH)** may be lost for consumers and businesses, and additional barriers could limit the seamless use of mobile services and innovative applications while travelling in the **single market of the EU/EEA**. Almost **170 million European roaming customers currently enjoy RLAH** and the benefits of staying connected like at home while travelling in the EU/EEA**.**

The 2019 Commission review report identified the problems that this initiative aims to address. The analysis builds on a broad range of data and feedback from stakeholders used to evaluate how this regulation has performed and how the roaming market functions according to the existing EU rules on roaming. The main problems are summarised below:

A. **RLAH cannot be sustained** without regulated wholesale charges or regulated retail roaming services due to insufficient competition dynamics (market failure).

B. Consumers do not always know what level of service to expect (quality of service) or how calls to value added services are charged when roaming (higher charges). The quality of service offered is sometimes lower than that at home, even if the equivalent level is available. Access, free of charge, to emergency services through alternative means and the provision of caller location information are not always ensured, especially for end-users with disabilities.

C. Roaming providers sometimes have problems in getting wholesale roaming access to requested networks. Because there is also a lack of transparency regarding calls to value added services roaming providers are unable to identify the relevant numbering ranges and, as a result, may incur unexpected costs. The current EU rules on roaming might not be sufficiently suited to enable innovation and address technological and business changes.

What should be achieved?

The initiative aims to achieve the following:

A) **Ensure that RLAH is sustainable for operators and that they can recover the cost of providing roaming services at wholesale level,** preserving incentives to invest in visited networks and avoiding distortion of domestic competition in visited markets.

B) Achieve a **genuine RLAH experience for roaming customers** and give end-users the confidence to stay connected when travelling within the EU. Consumers and business end-users should benefit from the same quality of services while roaming as at home, be able to use innovative services and benefit from increased transparency to avoid bill-shocks from using value added services. Equivalent access to emergency services for all should also be ensured, in the same way as at home.

C) **Facilitate innovation**, ensure wholesale roaming access to requested network technologies and help operators to avoid losses linked to value added services. The initiative also aims to simplify things and reduce the burden for operators and other stakeholders.

What is the value added of action at EU level (subsidiarity)?

In the international roaming market, action at EU level is needed to improve the single market for electronic communications. As observed in a landmark Court of Justice case on roaming (C-58/08 Vodafone), the fact that **international roaming is cross-border** itself justifies action at EU level because Member States cannot by themselves address the issue effectively. Furthermore, national regulatory authorities have not had the tools to tackle the problems themselves.

The 2019 Commission review report's findings and those of the Body of the European Regulators for Electronic Communications (BEREC) confirm, that the abolition of retail roaming charges in the EEA has substantially contributed to the completion of the single market. End-users have also been able to benefit from RLAH with a significant increase in volumes since June 2017. The report concludes that, despite signs of some competition dynamics on both the retail and wholesale roaming markets, the underlying basic competition conditions have not changed, and are unlikely to change in the foreseeable future, to such an extent that retail or wholesale regulation of the roaming market could be lifted. The value added is enabling sustainable and genuine RLAH for end-users, via EU wide wholesale caps which only an EU instrument can ensure.

B. Solutions

What are the various options to achieve the objectives? Is there a preferred option or not? If not, why?

The Commission is proposing and assessing four different options:

Option 1 (Baseline) – **Extension of the rules, maintaining the current provisions of the Roaming Regulation at both retail and wholesale level.**

Option 2 – **Continuity of the Roaming Regulation with clarifications**, **increased transparency and measures to strengthen competition.**

Option 3 – **Sustainable and genuine RLAH (preferred option).**

Option 4 – **Expanded wholesale and retail obligations for an enhanced RLAH experience.**

The preferred option is Option 3, which would ensure the highest effectiveness and efficiency in reaching the objectives of the review and extension of the Roaming Regulation (in the form of a recast). It includes measures to ensure the sustainable provision of RLAH, with a proposed glide path to lower the caps at wholesale level. It introduces improvements to respond to technological and business developments and ensure a genuine RLAH experience for end-users related to quality of service, value added services and emergency communications. It includes horizontal simplification and measures to reduce administrative burden.

What are different stakeholders' views? Who supports which option?

Stakeholders have different views on the level of price caps, quality of service requirements, and access to emergency services. Large inbounder network operators (and especially pan-European groups) tend to favour maintaining the wholesale caps at the current level. On the other hand, small outbounder network operators ('having a customer base that consumes more mobile services abroad than those consumed by the partner operators' customer base on its own network) and virtual operators seem to support a significant lowering of wholesale caps.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise of main ones)?

The preferred option balances operators' interests in ensuring a sustainable provision of RLAH without threatening cost recovery in the provision of wholesale roaming services. Lower wholesale caps imply a likely reduction in wholesale roaming costs for outbounder operators. The Commission's sustainability analysis estimates that this will lead to a reduction in the percentage of unsustainable operators (negative roaming margin exceeding 3% of their domestic margin) and a related reduction in the total negative roaming margin compared to the baseline of 42% in 2023 and 52% in 2025.

Consumer benefits are also important; the proportion of end-users at risk of facing surcharges when the operator has been granted a sustainability derogation would be reduced by more than 40%, and exceptionally paid surcharges would be further reduced. This option will improve end-users' experience while roaming by contributing to an improved quality of service and higher consumer awareness about the quality of service they should expect while roaming, and by helping roamers avoid bill shock from calls to value added services. Both are likely to result in increased customer satisfaction and reduced complaints.

This option also provides the necessary tools for operators to implement free-of-charge access to emergency

services and provide caller location information for all roaming end-users, including those with disabilities. This will help safeguard their health, life or property.

Finally, the preferred option aims to enable consumers and business users to benefit from technological developments and 5G-driven innovation while travelling.

There are also some (slight) environmental benefits expected by making it easier for roamers to use environmentally friendly mobile services and applications (e.g. new 5G and IoT mobile services to connect vehicles and road infrastructure that could prevent human casualties and reduce fuel costs and air pollution).

What are the costs of the preferred option (if any, otherwise of main ones)?

The reduction in wholesale caps implies a likely reduction in wholesale roaming revenues for inbounder operators, while still ensuring full cost recovery. For operators, a possible reduction in retail roaming revenues is linked to lower surcharges – consumers may be asked to pay in the exceptional cases when those are allowed (fair use policy and sustainability derogations), in which cases surcharges cannot exceed the wholesale caps. Additional compliance costs for operators and administrations are minor (estimated to be less than 6 person days per year for each on average).

The proposed measure on access to emergency services implies implementation costs. However, these are mostly linked to the implementation of rights and obligations already defined in other EU legislation (European Electronic Communications Code). Finally, the development and maintenance of a database with number ranges of value added services across the EEA will incur costs for BEREC (responsible for both tasks) and modest costs for the national regulatory authorities (responsible for updating the database contents).

What are the impacts on small and medium-sized enterprises (SMEs)?

SMEs will be able to benefit from a genuine RLAH experience, due to improved quality of service and the reduced risk of sustainability derogations. SMEs and application developers will further benefit from consumers using applications while crossing borders, with an improved and known quality of service. New applications and services, that require high quality of service or 5G can benefit indirectly: the seamless use across the Internal Market can support their uptake.

Will there be significant impacts on national budgets and administrations?

No significant impacts on national budgets and administrations are expected.

Will there be other significant impacts?

A reduction in the administrative burden is possible thanks to a proposal to revise wholesale caps, if needed, by way of a delegated act, which simplifies the legislative process (after 2025). Further savings are linked to a streamlined monitoring system, simplified requirements for operators outside the eurozone and the repeal of obsolete provisions.

Proportionality?

The preferred option contains a set of measures that are neither intrusive nor disproportionate. They are limited to those aspects that have been observed and not sufficiently addressed by the current regulation, and cannot be addressed effectively at national level. The limited duration of 10 years further ensures proportionality.

D. Follow up

When will the policy be reviewed?

The Commission proposes that the new regulation runs for 10 years to ensure certainty in the market and minimise the regulatory burden. Market competition is not expected to significantly change in this period. A first review report is planned for 2025, when the Commission will assess how the roaming market is functioning and whether there is a need for a policy review to address emerging challenges.