Basic information

2016/0185(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Wholesale roaming markets Amending Regulation (EU) No 531/2012 2011/0187(COD) **Subject** 3.30.05 Electronic and mobile communications, personal communications	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ITRE Industry, Research and Energy	KUMPULA-NATRI Miapetra (S&D)	06/07/2016
	Shadow rapporteur RÜBIG Paul (PPE) TOŠENOVSKÝ Evžen (ECR) ROHDE Jens (ALDE) FERREIRA João (GUE/NGL) REIMON Michel (Verts/ALE) BORRELLI David (EFDD) FONTANA Lorenzo (ENF)	

Committee for opinion	Rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
General Affairs	3531	2017-04-25
Transport, Telecommunications and Energy	3505	2016-12-01

European Commission

Commission DG	Commissioner
Communications Networks, Content and Technology	ANSIP Andrus

European Economic and Social Committee
European Committee of the Regions

Key events

Date	Event	Reference	Summary
15/06/2016	Legislative proposal published	COM(2016)0399	Summary
04/07/2016	Committee referral announced in Parliament, 1st reading		
29/11/2016	Vote in committee, 1st reading		
29/11/2016	Committee decision to open interinstitutional negotiations with report adopted in committee		
01/12/2016	Debate in Council		
07/12/2016	Committee report tabled for plenary, 1st reading	A8-0372/2016	Summary
28/02/2017	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE599.848 GEDA/A/(2017)002045	
05/04/2017	Debate in Parliament		
06/04/2017	Decision by Parliament, 1st reading	T8-0128/2017	Summary
06/04/2017	Results of vote in Parliament		
25/04/2017	Act adopted by Council after Parliament's 1st reading		
17/05/2017	Final act signed		
17/05/2017	End of procedure in Parliament		
09/06/2017	Final act published in Official Journal		

Technical information

Procedure reference	2016/0185(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EU) No 531/2012 2011/0187(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 114
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	ITRE/8/06880

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE589.188	16/09/2016	
Amendments tabled in committee		PE589.492	25/10/2016	
Committee report tabled for plenary, 1st reading/single reading		A8-0372/2016	07/12/2016	Summary
Text agreed during interinstitutional negotiations		PE599.848	23/02/2017	
Text adopted by Parliament, 1st reading/single reading		T8-0128/2017	06/04/2017	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2017)002045	15/02/2017	
Draft final act	00007/2017/LEX	17/05/2017	

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	COM(2016)0398	15/06/2016	Summary
Legislative proposal	COM(2016)0399	15/06/2016	Summary
Document attached to the procedure	SWD(2016)0200	15/06/2016	
Document attached to the procedure	SWD(2016)0201	15/06/2016	
Document attached to the procedure	SWD(2016)0202	15/06/2016	
Commission response to text adopted in plenary	SP(2017)363	07/06/2017	
Follow-up document	COM(2018)0822	12/12/2018	
Follow-up document	COM(2019)0616	29/11/2019	
Follow-up document	SWD(2019)0416	29/11/2019	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2016)0399	19/09/2016	
Contribution	RO_SENATE	COM(2016)0399	19/09/2016	

Contribution	PT_PARLIAMENT	COM(2016)0398	26/09/2016	
Contribution	CY_PARLIAMENT	COM(2016)0399	30/11/2016	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES3429/2016	19/10/2016	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2017/0920
OJ L 147 09.06.2017, p. 0001 Summary

Wholesale roaming markets

2016/0185(COD) - 07/12/2016 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Industry, Research and Energy adopted the report by Miapetra KUMPULA-NATRI (S&D, FI) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 531/2012 as regards rules for wholesale roaming markets.

The committee recommended that Parliament's position adopted in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Wholesale roaming access: the Commission proposal stated that mobile network operators may refuse requests for wholesale roaming access only on the basis of objective criteria and after obtaining authorisation from their national regulatory authority. Members suggested that the national regulatory authority concerned **inform the Commission of any application** for authorisation and of the objectively justified reasons therefor. The Commission shall make information concerning such applications available to the public, subject to the duty of confidentiality.

Complaints: undertakings that have requested wholesale roaming access may submit complaints to the national regulatory authorities concerned. The national regulatory authorities shall accept or reject such complaints within one month of receipt, providing reasons for their decision. The national regulatory authorities shall inform the Commission of such complaints and the corresponding decisions, and the Commission shall make them available to the public.

Wholesale charges for the making of regulated roaming calls: the average wholesale charge that the visited network operator may levy on the roaming provider for the provision of a regulated roaming call originating on that visited network, shall not exceed a **safeguard limit of EUR 0.03 per minute** as of 15 June 2017 and shall remain at EUR 0.03 until 30 June 2022 (the European Commission proposed a ceiling of EUR 0.04 per minute).

Wholesale charges for regulated data roaming services: Members proposed to change the units used for data from megabytes to **gigabytes** (1024 MB).

With effect from 15 June 2017, the average wholesale charge shall **not exceed a safeguard limit of EUR 4 per gigabyte** of data transmitted. The safeguard limit shall, **on 1 July 2018, decrease to EUR 3 per gigabyte** of data transmitted, on **1 July 2019 to EUR 2 per gigabyte** of data transmitted, and on **1 July 2020, to EUR 1 per gigabyte** of data transmitted. It shall remain at EUR 1 per gigabyte of data transmitted until 30 June 2022.

Dispute resolution: disputes between visited network operators and other operators on instances of **unfair competition** consisting in substance of an offer from a non-domestic operator based on permanent roaming may be referred to the competent national regulatory authority.

In this case, the Body of European Regulators for Electronic Communications (BEREC) shall, in its opinion, make **an overall assessment over a significant period** of all factual elements characterising the activities carried out by the non-domestic operator in the Member State in which it is established and, on a proportional and comparative basis, in the Member State visited.

Review clause: the Commission proposes a review of price caps every two years after 15 June 2017. Members proposed that the Commission submit an **interim report** on the implementation of the abolition of retail roaming surcharges **by 15 December 2018.** Furthermore, and after consulting BEREC, the Commission shall submit a report to the European Parliament and to the Council **by 15 December 2019 and every two years thereafter**, accompanied, if appropriate, by a legislative proposal to amend the wholesale charges for regulated roaming services laid down in this Regulation.

In its biennial report, the Commission should, in particular, assess whether "roam-like-at-home' (RLAH) has any impact on the evolution of retail prices and, in particular, the range of tariff plans available on the retail market.

Wholesale roaming markets

2016/0185(COD) - 15/06/2016 - Legislative proposal

PURPOSE: to regulate the functioning of national wholesale roaming markets in order to abolish retail roaming surcharges by 15 June 2017.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: abolishing retail roaming surcharges is an essential step towards ensuring that telecom rules support the establishment and functioning of a digital single market across the Union. This target was also stressed in the Digital Single Market Strategy set out by the Commission.

In 2015, the European Parliament and the Council adopted Regulation (EU) 2015/2120, which entered into force on 29 November 2015 and amended Regulation (EU) No 531/2012 (the Roaming Regulation).

Regulation (EU) 2015/2120 requires **retail roaming surcharges to be abolished in the Union from 15 June 2017**, subject to fair usage of roaming services and the possibility of applying a sustainability derogation mechanism of the abolition of retail roaming charges. These new rules for retail roaming services in the Union are referred to as the '**roam-like-at-home**' (RLAH) rule.

While necessary, the regulation at retail level alone is not sufficient to implement RLAH. **National wholesale roaming markets need to be competitive** and deliver wholesale roaming prices that enable operators to sustainably offer retail roaming services without any additional charges.

In this regard, the Commission has undertaken a **review of the wholesale roaming market**, with a view to assessing measures necessary to enable the abolition of retail roaming surcharges from 15 June 2017.

The review shows in particular that wholesale roaming markets do not always function properly. The impact of these **market failures** on the functioning of wholesale markets results in prices substantially above estimated costs, in particular for data.

Another conclusion of the review is that it is not possible to anticipate with certainty the impact of the future RLAH obligation, and in particular the expected increase of roaming traffic, on competition on national wholesale roaming markets.

In light of the problems identified, the Commission considers that the **current measures applicable on the wholesale roaming markets should be amended** to ensure that the level of wholesale roaming charges enables the sustainable provision of RLAH in the Union.

IMPACT ASSESSMENT: amongst the 4 options considered, the preferred option consisted of **setting EU-wide wholesale roaming charges caps at a lower level than today**. Under this option, legislation would reduce the current wholesale roaming charges caps and would also ensure that RLAH enters into force.

CONTENT: this proposal for a regulation is meant to **complete the rules on roaming, in particular with regard to wholesale roaming markets**, in order to abolish retail roaming surcharges by 15 June 2017 without distorting the domestic visited and home markets.

The Commission proposed to make the following amendments to the Roaming Regulation:

- add the possibility for the parties to a wholesale agreement to **waive the application of maximum wholesale caps** provided in Articles 7, 9 and 12 of the Roaming Regulation;
- reduce the current wholesale roaming charges caps to **EUR 0.04** per minutes of call made, **EUR 0,01** per SMS and **EUR 0,0085** per megabyte of data transmitted;
- ensure consultation of the Body of European Regulators for Electronic Communications (BEREC) in disputes concerning inputs necessary for the provision of regulated wholesale roaming services;
- ensure that the Commission submits a **report** to the European Parliament and the Council every two years after 15 June 2017;
- **clarify BEREC's data-gathering powers**: BEREC shall regularly collect data from national regulatory authorities on developments in retail and wholesale charges for regulated voice, SMS and data roaming services, including wholesale charges applied for balanced and unbalanced roaming traffic respectively.

Wholesale roaming markets

2016/0185(COD) - 15/06/2016 - Document attached to the procedure

The Commission presented a report on the review of the wholesale roaming market.

The elimination of roaming surcharges was reaffirmed as a general policy objective in the Commission's Digital Single Market Strategy which includes it as an important element for creating the right conditions for digital networks and services to flourish.

In 2015, the European Parliament and the Council adopted Regulation (EU) 2015/2120, which amended Regulation (EU) No 531/2012 (the Roaming Regulation). The 2015 Regulation requires **retail roaming surcharges to be abolished in the Union from 15 June 2017**, subject to fair usage of roaming services and the possibility of applying a sustainability derogation mechanism of the abolition of retail roaming charges. These new rules for retail roaming services in the Union are referred to as the 'roam-like-at-home' (RLAH) rules. However, Regulation (EU) 2015/2120 **did not provide for measures on the wholesale roaming market**, because additional investigation of market conditions was necessary

This report presents the **results of the Commission's wholesale roaming review**. It analyses the functioning of wholesale roaming markets in the Union under current Regulation and presents its proposal on how to enable through measures at wholesale level the abolition of retail roaming surcharges in the EU from 15 June 2017.

The main findings of the Commission report are as follows:

Competition developments in retail roaming markets: the Body of European Regulators for Electronic Communication (BEREC) analysis shows that there have been some important developments on the retail roaming markets recently, with domestic offers proposing **more affordable roaming prices to customers**. However, as noted by BEREC, most of the new, RLAH-like, retail roaming offers are not real RLAH offers in the sense of the Roaming Regulation, i.e. covering the whole of the Union for no additional surcharge (no add-on) within fair-use limits. In addition, these developments are unevenly distributed across Member States.

At the current levels of competition in wholesale roaming markets, the retail markets have not been capable of delivering full Union-wide RLAH. Potential technological and service developments like the spread of over-the-top services and embedded SIMs do not constitute a full and operational substitute for retail roaming services so far14. Therefore,

The current market pressure put on potential technological and service developments has remained limited, and this does not seem likely to change in the near future.

Assessment of the cost of providing wholesale roaming services: the Commission requested an external study to assess the costs of providing wholesale roaming services. National regulatory authorities (NRAs) have acquired a solid experience in cost modelling for the purpose of regulating termination rates taking countries' specific features into account as much as possible.

While a certain degree of uncertainty necessarily remains over the cost estimates provided by the cost model, the cost of providing wholesale roaming services in the European Economic Area (EEA) can confidently be assumed to be below 4 €cent/minute, 1 €cent/SMS and 0.85 €cent/MB, including transit costs borne by the visited operator.

On the specific issue of the impact of seasonality on the cost of providing wholesale roaming services, the impact of roaming seasonality was carefully analysed in the study using the best available data to quantify it. While seasonality-related costs are not negligible for voice services in some countries, **the effective impact of seasonality on the estimation of the upper bound of wholesale roaming costs** in the EEA remains small. This is because countries where seasonality effects are assessed as the highest (Croatia, Greece, Spain, Bulgaria) are not among the higher cost countries for voice origination services (Malta, Sweden, Netherlands, Latvia). The seasonality effects measured in the higher cost countries for voice are smaller.

Degree of competition in wholesale roaming markets in the EEA: the report stated that wholesale roaming markets display a number of **market failures:**

- they have an **oligopolistic** character: in order to provide roaming services to its customers, an operator can buy wholesale roaming services from only three to four operators in a given country, and some of these operators may be difficult to avoid for network coverage and capacity reasons;
- operators have only **imperfect substitutes** at the wholesale level;
- wholesale roaming agreements are generally driven by the amount of traffic that the visiting operator is able to offer during **bilateral negotiations**.

Stakeholders widely acknowledged in the public consultation that any competitive dynamics on the wholesale roaming markets in the EU are essentially linked to existing Union wholesale roaming charges caps, which provide a starting point for price negotiations in bilateral roaming agreements.

Certain historic incumbents, **operators with a large footprint** and generally operators with **large inbound roaming traffic** argue that wholesale roaming markets are competitive on the grounds that wholesale market charges are often below the current regulatory caps. Other operators, in particular smaller ones, and operators with large outbound roaming traffic, argue that prices available to them on the wholesale market are at or close to the current caps, but in any case substantially above costs and far too high for their respective domestic charging models to be sustainable once retail roaming surcharges would be abolished in June 2017.

Legislative proposal to address the identified problems: in light of the problems summarised in the report, **further regulation at Union level is necessary** to deliver wholesale roaming charges lower than the ones in place and closer and avoid a situation where individual Member States take divergent approaches to deal with the problem of high wholesale charges.

This report is accompanied by a legislative proposal to amend the Roaming Regulation containing measures to apply measures at wholesale level the abolition of retail roaming surcharges in the EU from 15 June 2017. As a result of this analysis, the Commission proposes to set maximum regulated wholesale roaming charges at 4 €c/min, 1 €c/SMS and 0.85 €c/MB.

Wholesale roaming markets

2016/0185(COD) - 17/05/2017 - Final act

PURPOSE: to regulate the functioning of national wholesale roaming markets in order to abolish retail roaming surcharges by 15 June 2017.

LEGISLATIVE ACT: Regulation (EU) 2017/920 of the European Parliament and of the Council amending Regulation (EU) No 531/2012 as regards rules for wholesale roaming markets.

CONTENT: this Regulation amends Regulation (EU) No 531/2012 by introducing rules which limit the amount that operators may charge between themselves to authorize roaming throughout Europe.

The reform of the wholesale market makes it possible, as from 15 June 2017, to **'roaming national tariffs'**, i.e. the removal of roaming charges on the retail market for consumers who live in Europe and travel to other EU countries.

Caps for the wholesale supply of roaming services:

With effect from 15 June 2017,

- the average wholesale charge that the visited network operator may levy on the roaming provider for the provision of a regulated roaming call shall not exceed a safeguard limit of EUR 0.032 per minute. That maximum wholesale charge shall remain at EUR 0.032 until 30 June 2022;
- the average wholesale charge that the visited network operator may levy on the roaming provider for the provision of a regulated roaming SMS message originating on that visited network shall not exceed a safeguard limit of **EUR 0.01 per SMS message** and shall remain at EUR 0.01 until 30 June 2022;
- 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 7.70 per gigabyte** of data transmitted. That maximum wholesale charge shall **decrease** to EUR 6.00 per gigabyte on 1 January 2018, to EUR 4.50 per gigabyte on 1 January 2019, to EUR 3.50 per gigabyte on 1 January 2020, to EUR 3.00 per gigabyte on 1 January 2021 and to EUR 2.50 per gigabyte on 1 January 2022. It shall remain at **EUR 2.50 per gigabyte** of data transmitted until 30 June 2022

Conditions for wholesale access to roaming services: where specified in a reference offer, such conditions shall include the specific measures that the visited network operator may take to prevent permanent roaming or anomalous or abusive use of wholesale roaming access as well as the objective criteria on the basis of which such measures may be taken.

Disputes between visited network operators and other operators on rates applied to inputs necessary for the provision of regulated wholesale roaming services may be referred to the competent national regulatory authority or authorities. In such a case, the competent national regulatory authority or authorities may consult Body of European Regulators for Electronic Communications (BEREC) about the action to be taken to resolve the dispute. Where BEREC has been consulted, the competent national regulatory authority or authorities shall await BEREC's opinion before taking action to resolve the dispute.

Review: the Commission shall submit **biennial reports** on how the rules are working, and if necessary, propose new caps. The first report shall be submitted by 15 December 2019.

ENTRY INTO FORCE: 12.6.2017.

The rules on caps for the wholesale supply of roaming services shall apply from 15.6.2017.

Wholesale roaming markets

2016/0185(COD) - 06/04/2017 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 549 votes to 27, with 50 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 531/2012 as regards rules for wholesale roaming markets.

Parliament's position adopted in first reading following the ordinary legislative procedure amended the Commission proposal as follows:

Wholesale charges for the making of regulated roaming calls: with effect from **15 June 2017**, the average wholesale charge that the visited network operator may levy on the roaming provider for the provision of a regulated roaming call originating on that visited network, inclusive, among others, of origination, transit and termination costs, shall not exceed a **safeguard limit of EUR 0.032 per minute**. That maximum wholesale charge shall remain at EUR 0.032 until 30 June 2022.

Wholesale charges for regulated data roaming services: in order to take account of the increased usage of data services and the reduction in cost per unit of data transmitted, the maximum wholesale charge for regulated data roaming services should decrease each year and should be set in euro per gigabytes where a gigabyte is equal to **1 000 megabytes**.

With effect from **15 June 2017**, 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 7.70 per gigabyte of data transmitted**. That

maximum wholesale charge shall decrease to **EUR 6.00** per gigabyte on 1 January 2018, to **EUR 4.50** per gigabyte on 1 January 2019, to **EUR 3.50** per gigabyte on 1 January 2020, to **EUR 3.00** per gigabyte on 1 January 2021 and to **EUR 2.50** per gigabyte on 1 January 2022. It shall remain at **EUR 2.50** per gigabyte of data transmitted until 30 June 2022.

Conditions for wholesale access to roaming services: when included in a reference offer, these conditions should include specific measures that the operator of the visited network may take to prevent permanent roaming or abnormal use or abusive use of wholesale roaming access, as well as the objective criteria on the basis of which such measures should be taken.

The reference offer may provide for the possibility to **terminate** a wholesale roaming agreement where the visited network operator has established that, based on objective criteria, permanent roaming by a significant share of the roaming provider's customers or anomalous or abusive use of wholesale roaming access is taking place, and has informed the home network operator accordingly.

The visited network operator may terminate the wholesale roaming agreement unilaterally on grounds of permanent roaming or anomalous or abusive use of wholesale roaming access only upon the **prior authorisation** of the visited network operator’s national regulatory authority.

The national regulatory authorities of the visited network operator and of the home network operator may each request BEREC to adopt an opinion with regard to the action to be taken in accordance with this Regulation. BEREC shall adopt its opinion within one month of receipt of such a request.

Review clause: the Commission proposes a review of price caps every two years after 15 June 2017. Members proposed that the Commission submit an **interim report** on the implementation of the abolition of retail roaming surcharges by 15 December 2018. Furthermore, and after consulting BEREC, the Commission shall submit a report to the European Parliament and to the Council by **15 December 2019 and every two years thereafter**, accompanied, if appropriate, by a legislative proposal to amend the wholesale charges for regulated roaming services laid down in this Regulation.

In its biennial report, the Commission should, in particular, assess whether "roam-like-at-home' (RLAH) has any **impact on the evolution of retail prices** and, in particular, the range of tariff plans available on the retail market.

The Commission’s biennial reports should, in particular: (i) analyse the extent to which exceptional retail roaming surcharges have been authorised by national regulatory authorities; (ii) 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.

BEREC should report regularly on the relationship between retail prices, wholesale charges and wholesale costs for roaming services.