



# **GSMA Supplementary Note**

Response to the Public Consultation on the Review and Prolongation of the current Roaming Regulation

**September 2020**



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# Executive Overview

This note is a supporting and complimentary document, which accompanies the GSMA's response to the European Commission's public consultation on the review and prolongation of the current Roaming regulation.

The table below outlines only a high-level overview of the GSMA's positioning on the topics, upon which the GSMA provides its elaborated arguments further below in this document.

Topic	GSMA Position
<b>M2M/IoT</b>	M2M/IoT should be out of scope of the Roaming regulation.
<b>Emergency services</b>	There is no need for additional regulation or changes to the current regulation.
<b>Provisions for people with disabilities</b>	There is no need for additional regulation or changes to the current regulation.
<b>Fair use policy</b>	<p>Fair use policy provisions require simplification due to the high complexity of the existing control mechanism. Regulation on this matter should be defined in a way that any controls are transparent and easy to understand for customers, easy to implement and track for network operators, and based on a cost efficient solution.</p> <p>Due to the significant decrease in regulated wholesale data prices data allowance on open data bundles per billing period shall in the future be once (and not twice) the volume purchased at wholesale price.</p>
<b>Fraud</b>	General guidance supported, as it is clear that current RLAH rules have left big open space for fraud and misuse. As fraud and misuse of regulated roaming mechanisms become increasingly challenging, more effective anti-fraud measures have to be introduced in the roaming regulation.
<b>MVNOs in the wholesale market</b>	No need for introduction of regulatory measures. There should be no special treatment of MVNOs in the regulation.
<b>Value Added Services</b>	The treatment of value added services under the Roaming Regulation requires proper reviewing.
<b>Quality of Service</b>	Within the framework of the current Roaming regulation, competition in the market drives retail roaming services being offered at similar quality of service than customers perceive on their home networks. Additional regulatory provisions, either on the retail or wholesale markets, will run the risk of being too general in nature and over-prescriptive, limiting the dynamics of service innovation and market competition.

## M2M/IoT

**M2M/IoT should be excluded from the scope of the Roaming regulation, both from a retail and wholesale perspective. The nature of IoT/M2M business model is fundamentally different from traditional voice and data services (e.g. not used for interpersonal communication, different traffic and revenue profiles and relatively high use of signaling resources, cross-border deployment with a need for permanent roaming, variable QoS requirements enabled by 5G network slicing). Unlike the mature voice/SMS/data business from standard customers, many M2M/IoT applications and services are still being defined and require commercial sophistication and innovative models to drive their full potential to end users. Regulation of the service, such as RLAH, including volume based pricing, are not fit for M2M/IoT business models. An objective, clear and harmonized definition of IoT services that is easy to implement in contracts and IT systems is required. GSMA does not object to the use of a specific numbering range for M2M/IoT services, subject to appropriate requirements and complementary to the ITU global numbering ranges.**

### Introduction

M2M/IoT roaming traffic uses the visited network differently from traditional voice and data services, using a different data usage profile and relatively high signaling resources. In light of the network slicing 5G capabilities, M2M/IoT use cases will vary in their QoS requirements as well.

Furthermore, extending the benefits of the roaming Regulation to IoT/M2M users in permanent roaming would in practice grant non-EU providers preferential access to EU markets, without reciprocity for EU providers on non-EU markets (i.e. If the regulated wholesale access rights and prices can be used for permanent roaming, in practice the obligations would expand to the national roaming market). This would create imbalances that could jeopardise the 5G business case. With 5G connectivity, the IoT market is also emerging in Europe and the regulation should not hinder growth in this area. Considering the fact that there are many uncertainties about 5G, there should be no regulation that restricts the potential of this technology. Thus, regulation should only intervene in case of proven anticompetitive behaviors or end-users' problems.

M2M/IoT roaming should be rather based on commercial roaming agreements instead of using regulated wholesale tariffs. Experience shows that these are working well, and suppliers of IoT/M2M can negotiate commercial wholesale agreements with several different providers in each Member State.

The M2M/IoT sector requires flexibility to deliver the growth that is necessary to bring continuous innovation and improved applications to customers, ensuring the optimal quality of service. Partnerships established between European operators for development of M2M/IoT permanent roaming business have been built around the common understanding that service sustainability and customer experience improvement is only possible with such commercial flexibility.

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The regulation should offer opportunities for the development of the business models of all stakeholders in these markets and not intervene in these developments by introducing early regulatory measures. Wholesale price caps do not fit IoT/M2M business models with very low data volumes but high usage of signaling resources. Freedom for commercial negotiations should be the general rule, enabling operators to continue the application of different pricing models for such cases. But different pricing models require a clear fencing of the relevant use cases applicable to a new price model. The experience has shown, that the very competitive markets for IoT find solutions for such fencing mechanisms without a need for regulation.

The economic impact of IoT is promising to be substantial and far beyond the connectivity market: from improving productivity, to reducing public administration costs in deploying public services, monitoring and reducing pollution, to improving and facilitating the delivery of public services. Deep differences from standard roaming are underlying the specific nature of IoT/M2M. Issues including unfair competition with domestic services, and specific questions like low data volumes transmission are key differentiators of IoT/M2M roaming. We also consider that the Commission should focus on alleviating the challenges that our members experience during the cross-border deployment of enterprise and consumer IoT applications, because of existing fragmentation in different EU markets and diverging regulatory environment across the EU.

Please find some further considerations below.

## Definitions of M2M and IoT

- In the EECC it is unclear what category of electronic communications services IoT is. Lack of clarity could result in onerous and irrelevant regulatory requirements being applied to IoT. Also, the M2M definition is far from being clear and concise to address the current broad and hybrid propositions across all industries. Alignment of interpretation is also needed among NRAs and with the industry during the EECC transposition process, so that fragmentation is minimized.

## Standard temporary roaming under RLAH vs M2M/IoT permanent roaming

- Standard roaming under the Roam-Like-At-Home regulations is aimed at customers who are temporarily travelling to other countries. Permanent M2M/IoT applications clearly do not belong within this regulation, as they don't raise similar concerns.
- M2M/IoT permanent roaming should always be based on commercial agreements between MNOs. Any obligation to enable permanent roaming would be disproportionate, likely leading to a disruption of national markets that could damage emerging M2M markets.

## Adjacent markets and players in the IoT/M2M environment

- Today, Roaming Regulation acknowledges that IoT and M2M based devices and solutions use connectivity provided by mobile network operators. However, such a view ignores the fact that IoT connectivity can be provided beyond traditional ECS services including commercial networks in unlicensed spectrum or private networks for example WiFi, Bluetooth, Zigbee. In addition, IoT architectures can also combine different types of connectivity solutions such as short range unlicensed and Wide Area Connectivity solutions for many devices for the same service. (e.g. Smart home, Connected Cars).

## Use of extra territorial numbering resources in permanent roaming for IoT services

- The EECC supports national regulatory or other competent authorities making available a range of non-geographic numbers which may be used for the provision of electronic communications services other than interpersonal communications services, throughout the territory of the Union.
- We welcome the option of allocating numbering ranges that can be used for permanent roaming as an alternative solution, and they should come with a tailored set of light touch regulatory requirements, tailored to M2M/IoT. Any allocation of new M2M numbering ranges should not impact/interfere with current use of ITU numbers, and should allow sufficient time for the operational adoption of the new numbering ranges, if the operators wish to do so. For any case of M2M/IoT permanent roaming it should always be based on commercial agreements between MNOs.

## Emergency Services

**There is no need for additional regulation or changes to the current regulation. Access to emergency services (112, reverse 112) is a usual feature of standard roaming agreements and is functioning properly.**

### 112 is working well for voice and call localisation identification while end-users are roaming

- Close cooperation with PSAPs is a necessary prerequisite in order to develop relevant standards.
- Typically, an “emergency SMS” does not exist in the 3GPP standards.
- Also, the pace of implementation of other types of emergency service access, such as SMS, on a domestic level appears to be different across the EU, therefore uniform rules would be premature (e.g. having long numbers to be used to send SMS such as proposed in Croatia is not ideal. It might be very complicated to communicate to the roamers about different numbers per country and/or per operator, which would be even more cumbersome).

### Regulation should not transfer the responsibility of organizing PSAPs to telecom operators

- It is the responsibility of the Member States to organise emergency services with PSAPs.

## Regulation should not mix up roaming in and roaming out

- For roaming in: Routing of voice-calls are made to the proper PSAP according to the organization adopted in each Member State and localisation of caller (e.g. in France it is possible due to a platform which is in common between operators and emergency services called “PFLAU”).
- For roaming out: This is the responsibility of the hosting operator abroad to route the calls in its network to the appropriate PSAP. It depends on the public policy of the government of the country to organize the PSAP and, for each operator in the visited country, it depends on the service made available.
- Customer information about the emergency services available in a visited Member State should be provided by the domestic operator that has a contractual relationship with the user, but only for the services that are harmonized at the EU level.
- Operators can only support the services tested to enable roaming in first place, and offering such services is purely the responsibility of a visited network and in some cases (e.g. Apps) responsibility of a separate entity, but not the operator.

## 112 voice call vs other communications

- For other types of communications (other than voice), PSAPs would also need financing and technical developments. We should be cautious with “over-requirement” on PSAPs for services that, at the end may not be used in any extensive manner. For example, all the PSAPs in the territory do not have the ability to get a team, hired full time, able to translate all official EU languages and all sign languages.

## Provisions for people with disabilities

**There is no need for additional regulation or changes to the current regulation. Services are user agnostic, and telecoms operators have not reported any challenges regarding provision of services to people with disabilities while roaming, different from the challenges of providing those same services in the home network.**

## EU-wide standardised services

- As there are no EU-wide standardised services for people with disabilities, trying to tackle such heterogeneity from a regulatory perspective will lead to inconsistencies and costly implementations.
- Should there be a new harmonized solution, then it must be funded by the EU, especially in the current macroeconomic context, marked by lower revenues.

## Access of disabled persons to the emergency services

- Generally, telecoms operators already support access to 112 calls in case of roaming calls. However, for end users with disabilities, connectivity providers are dependent on the national emergency solutions supported by the PSAPs present in each single Member States. We anticipate that there would be advantages of striving for a harmonisation of available solutions to be supported by PSAPs in all EU Member States when it comes to ensuring equivalence of access to emergency services for end users with disabilities.
- Up to now, some ECS providers have already implemented national solutions for the access of disabled persons to the emergency services in line with the provisions of the applicable national legislation. Another solution that would generate new costs for operators would lead to the inconvenient, undesirable and unfair situation when ECS providers would support the costs of two technical solutions for the same need, only due to the absence of coordination between Member States.

## Mapping of the capabilities of PSAPs

- As connectivity providers, we would encourage the Commission, potentially with the assistance of BEREC, to further elaborate on the mapping of the capabilities of PSAPs to support equivalence of access to emergency services for consumers with disabilities.
- An identification of potential solutions could be further built on the mapping already done in the EC's Working Document "*Implementation of the single European emergency number 112 – Results of the thirteenth data-gathering round*" in 2019. We would also encourage further stakeholder consultation with the aim to find an EU-wide solution(-s).

## It depends on the service made available in each Member State

- Each member state should design its most appropriate necessary organization of their emergency services.
- Operators can only support standardized services. General guidance by regulation is supported if this is felt relevant in some countries, but we do not see a need for additional regulation or changes in the current regulation. However, should there be any change introduced, which would require network operators to implement technical adaptation, it should be funded publicly.
- For example, in France: SMS is possible to the 114 number for French citizens with disabilities (<https://www.info.urgence114.fr/>) to a designated PSAP that manages the service. SMS from foreign visitors in the network and sent to 114 could not reach the designated PSAP in France as they will be technically speaking sent to the SMS Centers of the Home Operators, since in the 3GPP standard there is no "emergency SMS" existing. A SMS is routed back to the SMS-C of the operator where the end user has its contract.

## For roamers a specific coordination should be put into place between PSAPs and at Member State level

- Regarding the role of the domestic operator in controlling the way in which calls to 112 are routed, we would like to underline that only the host operator can decide and apply the routing principles.
- This will be far easier and efficient as communication between the operators and communication towards the end users both as outbound roamers and inbound roamers regarding numbers to use (a visited operator does not communicate with a roamer in, customer of other network operator).
- Customer information about the emergency services available in a visited Member State should be provided by the domestic operator that has a contractual relationship with the user, but only for the services that are harmonized at EU level.
- It would not be easy at all if all Member States can keep their home system. Instead dealing with the visited system might be more efficient (e.g. if sign language is different country by country).
- Having one single number/communication channel across the Member States might be another proposal but to be assessed (as per 112 for Voice Calls).

## Fair Use Policy

**Fair use policy provisions require simplification due to the high complexity of the existing control mechanism. Regulation on this matter should be defined in a way that any controls are transparent and easy to understand for customers, easy to implement and track for network operators, and based on a cost efficient solution. When reviewing the Roaming Regulation, fair use policy provisions should be developed further concerning open data bundles, limits on voice/SMS, simplification of 4-month window rule and proof of normal residence or stable links.**

Fair use rules that foresee the (ex post) monitoring of roaming vs domestic presence and traffic are extremely costly and complex to implement. Therefore, in some cases, operators have decided not to use this tool at all.

Even the (ex ante) setting of a fair use limit on open bundles: (i) only applies to data in contrast with the fact that operators experience abuses and frauds also on voice, (ii) does not protect operators from providing the service below cost, (iii) will be watered down in the event of a further reduction of wholesale caps.

To improve the existing provisions of the fair use policy provided by the Commission Implementing Regulation 2016/2286, the following points should be considered:

## Data allowance on open data bundles (once and not twice the volume purchased at wholesale price)

- When RLAH was introduced, it was ruled that due to potential discount agreements on the wholesale side, the RLAH data usage must be twice the volume that can be purchased by an operator at wholesale level from the whole retail price charged from the customers for all services included in the bundle of the monthly subscription fee. Hence, the current methodology multiplies the wholesale-based amount by a factor of two (2 x domestic retail price/wholesale price for the entire bundle).
- This methodology is becoming increasingly out of sync with reality and inhibits operators' incentives to add data into mid- and low-end rate plans. Due to the glide path included into the regulation, the wholesale data prices are, at the end of the current regulation, significantly lower than in the beginning. As a matter of principle, as long as there is the multiplier of 2, no retail RLAH offer can be presumed to be sustainable compared to any given level of wholesale price.
- Therefore, there is no reason to keep the multiplier two in the fair use rule. The amount of fair use data is high enough also without multiplier of 2 when compared to the normal needs of end users which shall be covered by the fair use policy. Additionally, the multiplier 2 can result in operator paying much more for the wholesale roaming services than what the operator charges from the end users. Due to these reasons the multiplier 2 shall be removed.

## Introduction of limits for voice/SMS

- Absence of voice/SMS limit leads to significant interconnection fraud to various number ranges. Possibility of a voice/SMS limit must be introduced to effectively prevent abusive/anomalous use of RLAH. This would even be preferable for the understanding of the mechanism by the customers that prefer to manage their consumption vis a vis limits instead of paying extra charges.

## Simplification of 4-month window rule

- The rule (more of 50 % of the days and more of 50 % of usage in roaming in at least 4 consecutive months), which enables to identify abusive or anomalous use is too complex to implement and to apply in practice.
- Besides the fact that implementation of this mechanism is very complicated, the 4-month observation period is extremely long from the perspective of:
  - Occasional travels that are in the scope of the Roaming regulation. The usual travelling abroad patterns do not exceed one month period;
  - New subscribers who normally should start using domestic services before starting and continuing using roaming longer period, than domestic services used.
- Furthermore, the following two criteria cannot be applied, as long as prepay customers are not registered, i.e. their identity is not known: (i) long inactivity and use mostly in roaming; (ii) subscription and sequential use of multiple SIM cards by the same customer.

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- Therefore, the existing mechanism should be replaced by a significantly simpler one, e.g. fixed period per annum that could be one month. In doing so the focus should be on a fair share between domestic and roaming usage which eliminates elements of potential end-user circumvention, e.g. one-time reconnect to a network other than EU-abroad as domestic presence.

### Proof of normal residence or stable links

- The mechanism for proving this criterion is ineffective. Any customer can provide a copy of the ID, even in cases when they work/study abroad, and their ID still includes the address of their residence on the territory of that particular Member State.

## Fraud

**The GSMA welcomes general guidance and the initiative to go deeper into detail on this important aspect, as it is clear that current RLAH rules have left significant open space for fraud and misuse. There are hardly any tools to address misuse situations, the existing regulation is reactive and not proactive in its design. As Fraud and misuse of regulated roaming mechanisms become increasingly challenging, every measure of the regulation has to be examined and more effective anti-fraud measures have to be introduced.**

However, Roaming regulation should not interfere with our other processes i.e. other detection systems, working in general, for all the traffic not specifically linked to roaming regulation.

### There should be controls against all types of fraud, including defined and future fraud scenarios

- Any controls need to be cost effective – the solution cannot mean a higher or comparable cost to the issue to be resolved.
- A level playing field should be ensured for all EU MNOs, preventing roaming value destruction within the EU, driven by several technology evolutions, by certain types of resellers or aggregators, or by arbitrage opportunities arising from the latter to the benefit of non-EU roamers only, who take advantage of the competitive framework in the single market.
- The SIM evolution (i.e. eSIM) will increase dramatically the market dynamism and circumventing possibilities will also significantly increase.

## Introduction of more effective anti-fraud mechanisms is required

- Cancellation of contracts, refusal of contracts, commercial and technical safeguards in wholesale contracts.
- An obligation to all operators to timely and accurately share roaming data and fraud alerts between operators building on the most effective standards.
- An obligation to block access to fraudulent number ranges if reasonably requested by home operator.
- Principles on liability and the financial settlement of fraud cases.

## Examples of fraud and misuse

- Besides abusive usage of SIM-cards sold to end customers, abusive usage of wholesale contracts is an important issue in roaming. As fraud on the wholesale side can do much more technical and financial harm, it is important to have an effective set of measures against such abusive usage.
- One example of fraud cases arising on the "retail" side is the offer of SIM cards for private or business use in so called MIFI Hotspots (e.g. "Glocal Me") for customers having their residence outside the EU/EEA. Often such SIM cards are virtualized, cloned and transported in cloud solutions, where they can be used within seconds in many different devices.
- An abusive use case on the wholesale side are permanently roaming SIM cards in our network, e.g. taking advantage of lower domestic price levels in other countries. Furthermore we get more requests for roaming access from new and unknown operators (most of them being virtual operators), who want to get access to resale or direct roaming agreements for their customers. We have seen many cases, where SIM cards are sold to customers having their residence outside the EU/EEA. This way, wholesale customers can offer cheap roaming to non-EU-customers, that would otherwise have to buy local SIM cards in each country in the EU or pay higher roaming charges to their home operator. As regulated EU-roaming caps are meant to support EU customers while travelling within the EU, such arbitrage models threaten wholesale revenues with operators outside the EU.
- Opportunistic usages of RLAH rules providing non-European travelers the same conditions as European people should be also addressed by the Commission: Can for instance an Asiatic MNO establish a MVNO in Europe and purchase connectivity at intra-EU tariff, in order to sell to non-EU visitors offers at EU price? With eSIM, more and more non-EU players could attempt to do that, with the consequence of jeopardizing roaming wholesale revenue of the European players.
- Non-European operators easily access regulated wholesale roaming rates, using the dual IMSI services spread on the world market, de facto putting European operators in a competitive disadvantage towards extra European operators.
- Leveraging on the call forwarding mechanism (the same used in "SIM box" fraud), it is possible for some customers to generate, from different European networks, large

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quantities of traffic to high-cost extra -EU destinations (fair use limits on voice could help here).

- RLAH subscriptions are used in "SIM box" for termination of calls of non-EEA origin towards EEA MNO applying origin based interconnection manipulating Calling Line Identity information, bypassing non-EEA interconnection rates of destination MNO and generating costs for Home network.
- RLAH subscriptions are used in "SIM box" for delivery of Application to Person SMS towards EEA destinations where high, non-regulated SMS interconnection rates are applicable.

### Intra-EU communications should remain out of scope of the RLAH regime

- The GSMA is opposed to the inclusion of intra-EU communications into the RLAH regime. We do not see a valid reason why it should be cheaper to call or send sms in another EU country when you are abroad than when you are at home. Now when intra-EU communications are regulated separately, it is quite illogical to include them also in the RLAH regime. These communications generate extra costs for the home operator and are subject to misuse/fraud and might pose technical/transparency problems when VoLTE roaming is enabled.

## MVNOs in the wholesale market

**No need for introduction of regulatory measures. There should be no special treatment of MVNOs in the regulation.**

- The market is functioning well. There is no structural reason why MVNO could suffer from a competitive disadvantage and if such an issue appears in specific circumstances, the adequate solution to the MVNOs' issue should be solved at a national level rather than with a European tool like wholesale price cap. Current sustainability mechanism is sufficient to address specific cases.
- The situation is not the same: unlike MVNOs, MNOs need to invest into licenses and building new networks. It is a deliberate choice to become an MVNO instead of MNO.
- The market is actually working, what shows the fact that commercial prices are below the caps. The Commission in its 2019 report on the review of roaming markets recognised that MVNOs seem to maintain their position on the market.
- Given that the MVNO markets in Europe are competitive, the introduction of new regulatory measures will distort the current level of competition. The normal functioning of the market is based on commercial negotiation that allows differentiation between MNOSs (and

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MVNOs). Indeed, the negotiating power of a MVNOs should not be considered by default lower compared to the MNOs.

- MVNOs can negotiate directly their wholesale roaming deals if they become a full MVNO and acquire their own IMSI range. Remaining a light MVNO and outsourcing to their host the negotiation and management of wholesale roaming agreements is an option, not an obligation. Having only “roaming out” traffic is not a disadvantage in wholesale negotiations. Full MVNOs can choose from the set of visited networks the one that offers the best price or quality.

## Value Added Services

**The treatment of value added services of visited country under the Roaming Regulation requires proper reviewing, notably due to the difficulties related to the unknown prices for these services in the visited country, invoiced at high rate to the operator of the country of origin. There are also fraudulent usages of this problem that should be looked at by the Commission.**

Fraudsters exploit the provisions of the Roaming Regulation for price arbitrage in order to gain economic advantages from the high termination rates applicable to premium numbers.

In case premium number ranges continue to exist, they should be offered on specific separate ranges in order not to overlap with normal ranges and, of course, they should not be subject to regulated tariffs (the connectivity part).

The GSMA stresses the importance of and recommends:

- Transparent, simple and consistent numbering plans for VAS within EU. If any common database with termination rates for calls to VAS is to be established, it should be run by NRAs or entities they appoint, as only NRAs have the resources to maintain such database.
- New obligations (e.g. customer information about calls to VAS and prices) not being costly and complex to implement.

# Quality of Service

**Within the framework of the current Roaming regulation, competition in the market drives retail roaming services being offered at similar quality of service than customers perceive on their home networks. Additional regulatory provisions, either on the retail or wholesale markets, will run the risk of being too general in nature and over-prescriptive, limiting the dynamics of service innovation and market competition.**

## Introduction

When subscribers leave their home country in the EEA and visit another EEA Member State, they can now expect to Roam Like at Home and get a high degree of satisfaction. Quality of Service is part of the user experience and has never been a concern either for residential customers or for businesses. The EC staff working document accompanying the November 2019 roaming report, for example, notes that the number of consumer complaints regarding roaming has not increased in most Member States following the introduction of RLAH and end-users' dissatisfaction with the QoS while roaming ranks low among the consumer complaints received by NRAs. All users are aware of the fact that different countries and different networks may have differing QoS levels, just like they experience different QoS whilst travelling within their home network. The current level of QoS variations is therefore accepted naturally, with no sign of EU citizens perceiving roaming QoS as a topic requiring Regulatory intervention by the EU.

The GSMA hereby explains why the regulation of roaming QoS would be detrimental for end users.

## Exceptions to the Roam Like at Home Principle

While the Roam Like at Home principle has been guiding the regulatory intervention, it is not an absolute rule. The existing Regulation itself provides some exemptions. A key example is the limitations to the working of the principle put in place by the Commission Implementing Act, which allows operators under certain circumstances to apply a 'fair use policy'. Especially for the so called Open Data Bundles (with high or unlimited data usage allowance), operators can limit the usage abroad to a certain predefined extent. In addition, the application of Roam Like at Home is limited to periodic travel. These limitations are in place to prevent costs for operators for providing Roam Like at Home to increase to a point that they affect the retail pricing in the home country, as pointed out in the Commission Implementing Act:

*“Use of regulated retail roaming services at the applicable domestic price on a permanent basis for purposes other than periodic travel would be likely to distort competition, put upward pressure on domestic prices in home markets and put at risk investment incentives in both home and visited markets.”*

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*“anomalous or abusive use of open data bundles while roaming may lead to the disappearance of such tariff plans in domestic markets, or to the restriction of roaming with such tariff plans, to the detriment of domestic users, and contrary to the objective of Regulation (EU) No 531/2012”*

These limitations serve to protect the functioning of the Roaming Regulation and ensure the fulfilment of its objectives. The regulation is designed to be sustainable and with limited impact on the pricing of subscriptions in the domestic market, i.e. due to the need for recovering additional roaming costs.

## Technical limitations to service quality while roaming

Replicating a service on the visited network comes with natural technical limitations. Mobile networks are complex systems of hardware and software, and not all networks or services can be expected to be interoperable with each other from day one. Other technical limitations are more persistent and have to do with how traffic is being routed between home and visited networks, causing a different response time. Differences in Coverage also play a significant role, as the quality of the roaming service is constrained by the quality of the visited network. If a visited network, for example, does not have 4G coverage in a certain area, it is obviously not possible to provide a 4G quality of service to roamers visiting it.

As a consequence, rules in relation to the quality of service requirements for roaming are far more complex to establish than tariff related requirements. It is only natural that some services and QoS levels available in domestic markets are not available, or at least not for a reasonable period of time, while roaming. Focus of the regulators should, in our view, not be on the full equivalence of quality at home and in roaming, which is hardly achievable in the foreseeable future, but on the fact that any such differences are not used to gain an unfair commercial advantage.

## Preserving competition in the wholesale market

Retail roaming relies on the existence of wholesale roaming agreements. Traditionally MNO's agree such wholesale agreements with more than one network in foreign countries. The networks that are not selected technically as 'preferred network' can be used by customers as back up or selected network, thereby allowing the greatest possible roaming experience—something that usually is not available in the domestic subscription.

Even though wholesale prices for roaming are capped, competition leads operators to negotiate and choose the partner that offers the terms and conditions best suited to their strategy. Operators select on which networks in each country to place the largest parts of their traffic volumes, in order to run an efficient operation that delivers the highest quality-price ratio. If the set of possible partners is narrowed down by strict requirements to meet a regulatory imposed service quality, there would be less options available, damaging cost efficiency and competition at wholesale level. The ability to gradually launch new technologies serves multiple important purposes. First of all it ensures proper testing, e.g. if a certain technology is first tested among local entities of a multinational operator, and only then, when proven to run smooth, is open to third party operators. Secondly, differentiation is an important motivation to innovate, while the duty to offer every innovation to all third parties severely constrains that motivation.



## Guidelines for Regulators

Within the framework of the current Roaming regulation, competition in the market drives retail roaming services being offered at similar quality of service than customers perceive on their home networks. Additional regulatory provisions, either on the retail or wholesale markets, will run the risk of being too general in nature and over-prescriptive, limiting the dynamics of service innovation and market competition.

Competition on the retail and wholesale levels is sufficient for the continued good functioning of the domestic and roaming services, therefore:

- Regulators should not disrupt the current functioning of the wholesale market, imposing QoS obligations that reduce the set of options available to operators that make efficient choices when purchasing or exchanging capacity for roaming
- Operators should be safeguarded from a strict application of the Roam Like at Home principle on the retail market, specifically in terms of service quality, given the risks to the efficient functioning of the wholesale market and the lack of complaints from end users.



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