

## Danish Non-Paper on the review of the roaming market and the Roaming Regulation 531/2012 as amended by Regulation 2015/2120

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### **Significantly reducing roaming wholesale price caps in the EU is a necessary step on the way to obtain all the benefits of the innovative and digital services of the future and to be able to realise the full potential of the Digital Single market**

Denmark welcomes the opportunity to comment on the Commission's public consultation on the review of the current Roaming Regulation 531/2012 as amended by Regulation 2015/2120.

Being able to use electronic communication services, including while travelling, is still very important. The Roam-Like-at-Home regime is, thus, essential for consumers and businesses in today's European digital economy and society. It is also an important factor in a European single market for electronic communication.

The introduction of Roam-Like-at-Home, and thereby the abolition of roaming surcharges has so far been a success, and the objective of Roam-Like-at-Home has been met. European consumers and businesses have been able to take advantage of the new regime, and it is essential that European consumers and businesses can continue to use their mobile phones without limitations in the EU/EEA.

Furthermore, the competition dynamics in the roaming market have not changed and are not likely to change in the near future. Therefore, the current retail and wholesale regulation is still necessary. The current rules for roaming should continue to apply in the coming years to ensure that European consumers and businesses can benefit from roaming at no additional cost within the EU.

However, there are areas for improvement. The Commission should therefore take the necessary steps to ensure that European consumers and businesses can continue to benefit from roaming without surcharges in the coming years and that wholesale markets are working well.

#### ***Wholesale price caps***

Denmark considers it essential that the wholesale price caps are further reduced in connection with the revision of the Roaming Regulation for the benefit of competition and – ultimately – the goal of lower prices for end users. Significantly lower wholesale price caps are essential for it to continue to be possible for European consumers to use increasing amounts of data, to obtain all the benefits of the innovative and digital services of the future and to be able to realise the full potential of the Digital Single market.

The implementation of Roam-Like-at-Home has led to a significant increase in volumes, which in itself has ensured a decline in wholesale prices in recent years. Market prices develop in part independently of the regulated wholesale price caps, and the wholesale price caps thus act as a safety net when operators negotiate roaming agreements.

As shown in the BEREC supplementary analysis on wholesale roaming costs (BoR (19) 168) there is some room for further reduction of the wholesale caps, while still guaranteeing that operators are

able to recover their efficiently occurred costs for providing wholesale roaming services, and at the same time still leaving room for negotiating prices below the wholesale caps.

According to BEREC, the maximum unit costs for voice roaming services are 40 percent lower than the price cap imposed and the minimum unit costs are 60 percent lower than the cap of the first half of 2022.

The results for SMS roaming services show that the maximum and minimum costs for SMS are 70 percent lower than the SMS wholesale cap imposed for 2022.

As for data roaming services, BEREC determines that the maximum unit costs for data roaming services for 2022 are 25 percent lower than the caps and the minimum unit costs are 50 percent lower than the caps.

Therefore, Denmark recommends updating Articles 7, 9 and 12 of the Roaming Regulation taking into account that operators need to recover their efficiently incurred costs to provide wholesale roaming services.

### ***Quality of Service***

The intention of the Roaming Regulation is to allow roaming customers to use the service like at home. The Roaming Regulation does not provide any obligations in terms of QoS requirements.

End users are generally aware that different countries and networks may have different levels of QoS. As noted in the Commission's staff working document, end users are generally satisfied with the quality of service provided while roaming.

Therefore, there does not seem to be any immediate issues or problems for either consumers or businesses.

However, in line with the BEREC Opinion on the functioning of the roaming market, Denmark suggests obliging the operators to be transparent towards the customers in terms of the available technologies and speeds (QoS) while roaming (e.g. website, contracts, etc.).

Denmark further suggests considering to legislate against discrimination in the quality of service between a customer roaming on a foreign mobile operators' network and a domestic customer using the same mobile operators' network. Thus, securing that roaming customers are treated equally to local network customers.

### ***Fair use policy***

Denmark considers that the fair use policy measures have overall enabled operators to successfully address abusive or anomalous use of roaming services at domestic prices (such as permanent roaming) by individual customers, although this process entails some costs and complexity.

In its report on the review of the roaming market from November 2019, the Commission concludes that it does not intend to amend the rules on fair use policy and sustainability derogation. This is due to the adequate functioning of these sets of safeguard rules at retail level and that only a very small minority of the most intensive roaming consumers are in practice affected by the application of fair use policy.

Denmark supports the Commission's conclusion that the current fair use policy measures are maintained, or alternatively are simplified.

***Relationship between MNOs and MVNOs***

Mobile virtual network operators (MVNOs) are facing challenges to compete in the retail market and for example, MVNOs typically pay wholesale roaming prices that are higher than those paid by MNOs. There is a need to improve the situation of MVNOs in the wholesale roaming market so that they remain competitive on their respective domestic markets and ensure more equal terms for the competition between MNOs and MVNOs.

Securing a level playing field for all providers of regulated roaming services is therefore important to the competition on the domestic markets.

However, the solution should not be to introduce an obligation for host MNOs to pass on the commercially negotiated discounts on wholesale roaming services to a MVNO. Such a requirement does not take into account the costs incurred by the MNO which hosts the inbound roaming traffic, which is the decisive element of the discount that the MNO obtains from a visited network. In addition, such a requirement will certainly have an increasing effect on domestic wholesale prices.

Furthermore, such a measure is very complex to implement in practice (e.g. because a MNO has several bilateral agreements in each Member State, often with complex pricing structures and discounts depending on quantities, and often awarded at the end of the specified periods). Because of the complex and various bilateral agreements, such a measure will be difficult for NRAs to monitor and enforce. There could be a risk that disputes over actual level of discounts can lead to numerous complaints from the MVNOs and demands that the NRA steps in to investigate.

Instead, significantly lowering wholesale caps will contribute positively to the position of MVNOs and be a more efficient measure to create a level playing field.