

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on roaming on public mobile communications networks within the Union (recast)’

(COM(2021) 85 final — 2021/0045 (COD))

(2021/C 374/06)

Rapporteur: **Christophe LEFÈVRE**

Referral	European Parliament, 24.3.2021 Council of the European Union, 11.3.2021
Legal basis	Article 114 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted in section	15.6.2021
Adopted at plenary	7.7.2021
Plenary session No	562
Outcome of vote (for/against/abstentions)	204/0/1

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) notes that the Commission proposal is linked to:

- the deployment of infrastructure to remove ‘white spots’ and improve broadband connectivity, and to the roll-out of next-generation (5G) technologies;
- the objective of achieving high levels of consumer protection and ensuring competition between mobile network operators;
- creating a ‘Europe fit for the digital age’, with a view to preventing the return of barriers to the single market.

1.2. The EESC notes that the proposal will increase transparency at retail level by providing information, in contract conditions, on:

- the quality of roaming services in the EU;
- value-added services, the type of services likely to be subject to higher charges, and similar matters, contained in the welcome text message sent when the customer enters another country;
- the different ways of accessing the emergency services when roaming.

More generally, this proposal will increase the level of consumer protection.

1.3. While a study has demonstrated a deterioration in access to local networks for roaming services, the proposal aims to ensure that roaming services (‘roam-like-at-home’ — RLAH) are provided under the same conditions as for domestic consumption of these services, with unlimited access to the latest generations and network technologies available for roaming. Where the problem is poor local infrastructure, the EESC recommends increasing investment in this infrastructure, particularly to improve coverage of ‘white spots’, but also introducing minimum requirements to be progressively met by operators in order to enable consumers to make full use of these services.

1.4. The lower caps on prices that visited networks can charge visiting operators are also welcome, but the scale of the reduction is insufficient given the difference between the prices re-charged and the actual costs of roaming in the visited network. This increases the cost of basic subscriptions for consumers and undermines the competitiveness of mobile virtual network operators (MVNOs), who have to buy roaming services from the main mobile operators. Data consumption in particular is increasing at high rates. To avoid negative scaling effects for MVNOs and small mobile network operators (MNOs), wholesale caps need to decrease at the same rate as consumption increases.

1.5. The EESC should express its support for the preferred option in the proposal 'Option 3 — Sustainable and genuine RLAH' (preferred option) and ensure even lower price caps than indicated in the proposal.

1.6. While the proposed regulation improves the transparency of value-added rates through the creation of value added service numbering ranges, with a centralised EU database accessible to operators for these numbering ranges, the Committee recommends that it include the possibility of interrupting a service when it is put in place fraudulently (ping call) following an alert from the judicial or police authorities, providing for a means of redress for operators of these services.

1.7. While the regulation refers to 'fair use' to describe roaming usage, the Committee regrets that it completely fails to define its limits, nor does it address fair use policy rules for unlimited tariff plans, or the pricing of international calls, irrespective of whether the customer is roaming or not. The Committee proposes deleting the term 'subject to fair use' unless its scope is specified, as this argument is currently used by operators to severely restrict the use of roaming packages.

1.8. With regard to consumer alerts when approaching a limit defined either by the consumer or by the operator, the Committee recommends requiring the operator to alert the consumer again whenever the volume set for the first alert has been consumed again, particularly during the same call or data use session.

1.9. In particular, the Committee feels that special attention should be paid to situations where mobile devices are used in cross-border areas with non-EU countries, and recommends that:

- a specific link be requested from operators operating in the European Union's areas for EU RLAH roaming charges to be extended to those countries or to the bordering geographical area;
- international agreements be concluded with those countries bordering EU countries for extending EU RLAH roaming.

1.10. The Committee points out that the study and consultations on the revision of the EU regulation were carried out to a certain extent before the COVID-19 crisis. This crisis has led to severe restrictions on intra-European travel and extensive use of teleworking and streaming of university courses, especially for Erasmus+ students.

1.11. The Committee highlights the fact that there are still many areas not served by local loop broadband in the European Union, and notes, above all, that the speed is insufficient for meeting the demand generated by these data-intensive video conferences, whether roaming or not.

1.12. The Committee recommends that both the strategy for optical fibre-based broadband coverage and the capacity for broadband provision, be it in a local loop or mobile network, be strengthened significantly.

1.13. The EESC recommends that the EU regulation be implemented with the ultimate aim of making the European Union a single tariff zone, in a single market, offering calls and data consumption at 'local' rates to all mobile phones and landlines of customers who have a telephone subscription in Europe, with the same speed and access to infrastructure, to or from whichever country the call is being made.

1.14. The Committee is concerned by the proposal to change the way of revising maximum wholesale charges by means of a delegated act and recommends a comprehensive legislative review with regard to the societal aspects of the development of roaming.

2. Gist of the Commission proposal

2.1. The aim of the proposal is to extend the application of Regulation (EU) No 531/2012 of the European Parliament and of the Council ⁽¹⁾, which expires on 30 June 2022. The proposal adjusts maximum wholesale charges to guarantee the sustainable provision of retail roaming services at national prices. It also introduces new measures to increase transparency and ensure a genuine 'roam-like-at-home' experience with regard to quality of service and access to emergency services while roaming. As Regulation (EU) No 531/2012 has been amended several times, the aim of this proposal is to recast the regulation in order to make it clearer and replace the amending acts it contains.

2.2. The main changes proposed should enable operators to provide 'roaming like at home' and to recover costs sustainably on the wholesale market. Wholesale roaming charges are to be capped across the EU for calls made, text messages and data at levels below those applicable until 30 June 2022.

2.3. In addition to reducing the maximum applicable wholesale charges, the proposal includes changes designed to offer genuine 'roaming like at home' to end-users and to facilitate innovation and access to networks, while establishing a future-proof regulatory framework, in the interests of both consumers and operators.

2.4. In short, the proposal contributes to the creation of a 'Europe fit for the digital age' that can make the most of the digital transition, in order to give citizens better opportunities to connect, communicate and facilitate professional and business activity in the single market. Its purpose is to prevent the reintroduction of barriers to the single market that had been removed by the abolition of retail roaming surcharges.

3. Legal basis

3.1. The legal basis for this proposal is Article 114, the framework for the ordinary legislative procedure, which is intended to establish or improve the functioning of the internal market (Article 26 TFEU).

4. General comments

4.1. The Committee welcomes this draft European regulation and deems it necessary that the proposal at last aim to provide consumers with the same level of service and protection abroad as at home. However, operators should have the possibility to negotiate their wholesale roaming agreements according to their commercial needs. The Regulation should not mean that wholesale access agreements can be concluded only with operators with the most advanced networks.

4.2. The Committee notes that the Commission proposal is linked to:

- the deployment of infrastructure to remove 'white spots' and improve broadband connectivity, and to the roll-out of next-generation (5G) technologies;
- the objective of achieving high levels of consumer protection and ensuring competition between mobile network operators;
- creating a 'Europe fit for the digital age', with a view to preventing the return of barriers to the single market.

4.3. The EESC notes that since 2018 the Commission has carried out impact assessments, including a 12-week public consultation in 2020, on: (1) retail roaming services (clarifications and measures on quality of service, on value-added services and on emergency communications when roaming); (2) the provision of wholesale roaming services; (3) the administrative burden associated with Regulation (EU) No 531/2012 and the impact of potentially simplifying measures.

4.4. The EESC notes that the proposal will increase transparency at retail level by providing information, in contract conditions, on:

- the quality of roaming services in the EU;

⁽¹⁾ Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (OJ L 172, 30.6.2012, p. 10).

— value-added services, the type of services that are likely to be subject to higher charges, and similar matters, contained in the welcome text message sent when the customer enters another country;

— the different ways of accessing the emergency services when roaming, particularly in the welcome text message.

4.5. The 2019 study of the Body of European Regulators for Electronic Communications (BEREC) demonstrated the deterioration in access to roaming services, while a strategy for technical improvements is being implemented across Europe. The proposal aims to ensure that roaming services are provided under the same conditions and with the same quality of service as for domestic consumption of these services, and that mobile network operators are able to provide access to all available generations and network technologies.

4.6. The proposed measures are therefore necessary to ensure that the legitimate expectations of consumers are met and the original aims of the roaming regulation achieved. Where the problem is poor local infrastructure the EESC recommends increasing investment in this infrastructure, particularly to improve coverage of 'white spots', but also introducing minimum requirements to be progressively met by operators in order to enable consumers to make full use of these services.

4.7. The lower caps on prices that visited networks can charge visiting operators are also welcome, but the scale of the reduction is insufficient given the difference between the prices re-charged and the actual costs of roaming in the visited network. This increases the cost of basic subscriptions for consumers and weakens the competitiveness of MVNOs, who have to buy roaming services from the main mobile operators.

4.8. The EESC should express its support for the preferred option in the proposal 'Option 3 — Sustainable and genuine RLAH' (preferred option) and ensure even lower price caps than indicated in the proposal.

4.9. The proposal increases the level of transparency at wholesale level for value-added services' numbering ranges by creating an EU-wide database of these ranges that is accessible to operators.

4.10. The Committee recommends that the proposal include the possibility of interrupting a service when it is put in place fraudulently (ping call) following an alert from the judicial or police authorities, providing for a means of redress for operators of these services.

4.11. It ensures free access to emergency services for roaming customers through specific measures at wholesale level, including free calls and geolocation services.

4.12. While the proposal for a regulation does seek to eliminate anomalies experienced by customers accessing the roaming network (ease of connection, reduced access to 3G or 4G, etc.) who are not subscribers in the roaming country, the EESC points out that it does not however regulate practices that it would not deem to be normal, such as:

— limiting the volume of megabytes included in a subscription that can be consumed while roaming, and

— the practice of setting prices that are too high for the non-roaming customer when they contact someone with a mobile plan in another country.

4.13. While the regulation refers to 'fair use' to describe roaming usage, the Committee regrets that it completely fails to define its limits, nor does it address fair use policy rules for unlimited tariff plans, or the pricing of international calls, irrespective of whether the customer is roaming or not. The Committee proposes deleting the term 'subject to fair use' unless its scope is specified, as this argument is currently used by operators to severely restrict the use of roaming packages.

4.14. In particular, the Committee feels that special attention should be paid to situations where mobile devices are used in cross-border areas with non-EU countries, and recommends that:

- a specific link be requested from operators operating in the European Union's areas for EU RLAH roaming charges to be extended to those countries or to the bordering geographical area;
- international agreements be concluded with those countries bordering on EU countries for extending EU RLAH roaming.

4.15. The Committee points out that the study and consultations on the revision of the EU regulation were carried out to a certain extent before the COVID-19 crisis. This crisis has led to severe restrictions on intra-European travel and extensive use of teleworking and streaming of university courses, especially for Erasmus+ students.

4.16. The Committee highlights the fact that there are still many areas not served by local loop broadband in the European Union, and notes, above all, that the speed is insufficient for meeting the demand generated by these data-intensive video conferences, whether roaming or not.

4.17. The Committee recommends that both the strategy for optical fibre-based broadband coverage and the capacity for broadband provision, be it in a local loop or mobile network, be strengthened significantly, including in terms of quality.

4.18. With regard to consumer alerts when approaching a limit defined either by the consumer or by the operator, the Committee recommends requiring the operator to alert the consumer again whenever the volume set for the first alert has been consumed again, particularly during the same call or data use session. If these alerts fail or are not implemented, mechanisms for reimbursing unfair charges should be provided for.

4.19. With regard to the centralised database for numbers with value-added services, the Committee recommends that it be set up incorporating the possibility of interrupting a service when it is put in place fraudulently (ping call) following an alert from the judicial or police authorities, providing for a means of redress for operators of these services.

4.20. The EESC recommends that the EU regulation be implemented with the ultimate aim of the European Union creating a genuine single market, offering calls and data consumption at 'local' prices to all mobile phones and landline customers who have a telephone subscription in Europe, and with the same speed and access to infrastructure whichever country is making or receiving the call.

4.21. The Committee is concerned by the proposal to change the way of revising maximum wholesale charges by means of a delegated act. A comprehensive legislative review should be adopted as the way forward, so that all societal aspects of roaming development are taken into account. The views of the European Parliament and civil society organisations are important here.

Brussels, 7 July 2021.

The President
of the European Economic and Social Committee
Christa SCHWENG
