



BRIEFING PAPER

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The abolition of mobile roaming charges and Brexit

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Summary

How does mobile roaming work?

When UK mobile users travel abroad and continue to use their mobile services, often incurring surcharges, they are using retail roaming services. For this to be possible, their UK mobile company must conclude commercial agreements with foreign operators to use their networks (known as wholesale roaming). In 2007 the European Union (EU) responded to unjustifiably high retail and wholesale roaming charges by introducing regulated maximum price caps for both. Since then, these caps have been periodically reviewed and lowered.

The abolition of roaming charges in the EU

Since 15 June 2017 roaming charges in the EU have been abolished. This means that mobile customers are now able to use their domestic allowance of minutes, text messages and data throughout the EU (and the European Economic Area (EEA)) without incurring additional charges. To make this commercially sustainable for operators the EU has allowed operators to guard against abusive or anomalous usage through a Fair Use Regulation, which means that there are a number of exceptions to the policy.

Possible impact of Brexit on roaming

The Government has indicated that the abolition of roaming charges will continue to apply in the UK until it leaves the EU. Following Brexit, a number of scenarios are possible. Some commentators have warned that prices for wholesale and retail roaming services will increase if a replacement for the reciprocal price caps on wholesale roaming charges is not agreed. Companies which are part of large international groups will be partly insulated from such increases; other operators, particularly MVNOs, will not. The Government has indicated that Brexit will not mean an automatic re-introduction of retail roaming charges as some operators might continue to offer surcharge-free roaming services to customers.

Retaining current roaming benefits after Brexit?

The 2015 Government stated that the Great Repeal Bill would ensure that the same rules for roaming would apply after Brexit and confirmed that it is exploring a number of options. The ban on retail roaming charges could be retained in domestic law, but retaining the caps on wholesale charges would require a reciprocal agreement with the EU. The UK could continue to participate directly in the roaming regulations if it became a non-EU member of the EEA. Alternately, provisions on wholesale roaming caps could be included in a UK-EU free trade agreement. The former Government's position and the impact of Brexit on mobile roaming charges was the subject of Parliamentary scrutiny in 2016/17, which has now concluded. The 2017 Government has not yet made any statement on this issue.

Global roaming

When the UK leaves the EU, it will be free to include roaming provisions in Free Trade Agreements with non-EU countries. These agreements could include provisions that would seek to achieve low roaming prices by mutual agreement. A number of precedents exist but closer analysis of their effects is needed.

This Briefing Paper applies to the whole of the UK as mobile roaming charges is not a devolved issue.

1. Background

1.1 What is international mobile roaming?

International mobile roaming, often referred to simply as 'roaming', occurs when customers travel abroad and use their phone or other mobile device to make calls, send SMS or surf online without changing SIM card. When this happens they rely on their home mobile phone company (or operator), with whom they have a contract, to provide them with access to overseas mobile networks.

The three types of international roaming are:

- **Voice roaming**, i.e. to make calls back to the customer's home country, call a local number in the visited country or call a third country, and to receive calls;
- **SMS roaming**, i.e. as above, but with text messages;
- **Data roaming**, i.e. browsing the internet, sending and receiving MMS messages, exchanging emails and using other web-based services and applications.

Roaming is convenient because it allows customers to continue to use their home mobile number and SIM card to make calls, receive texts and use data services when abroad. Roaming also allows customers to pay for these services as part of their existing billing arrangements at home, instead of having to enter into new contractual arrangements.

Roaming has been a high profile political issue for many years because high prices and lack of awareness among consumers has sometimes led to "bill shock" – mobile users returning home to find that they have run up bills of hundreds and even thousands of pounds, particularly when they have used data roaming services.

1.2 How does roaming work?

Two distinct roaming markets exist: a retail market in which operators sell roaming services to their domestic customers, underpinned by a wholesale roaming market in which operators purchase access to foreign operators' mobile networks.¹

Wholesale roaming services

This relates to commercial agreements made between mobile operators and not consumers.

When a customer travels abroad they leave the coverage of their home operator's mobile network, meaning that the home operator must put agreements in place with operators in the visited country, so their

¹ More information on mobile roaming markets can be found in Oxera, [Written evidence to the Lords EU Internal Market Sub-Committee](#), November 2016

customers can continue to use their services. These agreements address the technical and operational requirements, and establish the tariffs that operators charge each other when their customers use one another's networks.

When a visited operator grants access to its network to another mobile operator it is said to be providing 'wholesale international roaming services', and the charges for these services are known as wholesale roaming charges. This market is restricted to Mobile Network Operators (MNOs) – i.e. operators who own a network in their country. In the UK the MNOs are: Vodafone, EE, Three and O2.

Mobile Virtual Network Operators (MVNOs) such as giffgaff and Tesco Mobile differ from MNOs in that they do not own a network. They are third-party companies that purchase access to the MNO's networks at wholesale rates, and then sell retail services to customers.

Retail roaming services

Retail roaming services are sold to customers by their mobile phone company as part of a domestic mobile bundle. To use retail roaming services when abroad, these customers simply carry on using their device and SIM card as usual, and pay their home operator for any costs incurred on the basis of their contract.

Retail roaming services typically take the form of either a rate card which specifies the extra charges the user will pay for international roaming (standard roaming tariffs) or a bundled service which charges a flat-rate fee for a specific volume of minutes, SMS and data or usage of one's domestic allowance (special roaming tariffs). For example, until recently, most UK MNOs charged some customers daily fees for roaming add-ons within the European Economic Area (EEA).

From 15 June 2017, this is no longer the case as the EU's Roam like at Home initiative has been introduced, which prohibits operators from imposing retail roaming charges on customers for travel within the EEA (see more in Section 2 and Box 1 below).

1.3 Why did the EU regulate roaming services?

In 1999, following complaints about high roaming charges, the European Commission used its competition powers to launch a sector inquiry into telecommunications services, including roaming markets.² The inquiry found that excessive pricing and price collusion were likely in relation to both mobile wholesale rates and the mark-ups operators

² European Commission, [Commission launches second phase of telecommunications sector inquiry under the competition rules: mobile roaming](#) 4 February 2000 [accessed 30 June 2017]

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applied to retail prices, and competition proceedings were opened against a number of operators in the UK and Germany.³

In October 2005, the Commission identified that roaming charges were very high in some cases and illustrated a wide variation in prices across Member States that was not justified by differences in the cost of providing the service.⁴ Soon after this, the European Parliament called on the Commission to act to tackle high roaming charges.⁵

In December 2006, the Commission brought forward a proposal⁶ to regulate roaming charges for voice calls on the grounds that:

- consumers were incurring excessive roaming charges due to high wholesale charges and high retail mark-ups;
- reductions in wholesale charges were often not passed on to the customer;
- prices were significantly higher than the cost of providing roaming services;
- the cross-border nature of the wholesale market meant National Regulatory Authorities (NRAs) had been unable to reduce prices;
- these problems were a barrier to the functioning of the Single Market and an impediment to growth.

1.4 EU regulation of roaming services

Between 2007 (when the 2006 proposal was adopted as law) and 2017, the EU has tackled roaming charges through a series of measures which have successively introduced regulated maximum price caps for voice, SMS, and data roaming, covering both retail and wholesale markets. The caps have been reviewed and reduced over time.⁷

The EU legal acts which regulate roaming charges are collectively referred to as the Roaming Regulations and are outlined below:

- **Roaming I:** [*Regulation on roaming on public mobile telephone networks \(No 717/2007\)*](#) introduced maximum price caps for

³ European Commission, [Commission challenges UK international roaming rates](#) 26 July 2004 [accessed 30 June 2017]

⁴ European Commission, [Commission launches consumer website on the costs of mobile roaming in Europe](#) 4 October 2005

⁵ [European Parliament resolution on European electronic communications regulation and markets](#) 1 December 2005

⁶ [Regulation 717/2007 on roaming on public mobile telephone networks within the Community](#) 29 June 2007

⁷ European Commission, [Roaming charges | What has the European Commission done so far?](#) [accessed 15 June 2017]; also see Van der Wee, Spruytte, De Regt, Verbrugge, [International Roaming in the EU: Historic Overview, Challenges, Opportunities and Solutions](#) March 22, 2016

phone calls made and received while abroad.⁸ Although other options were considered (including the use of existing regulatory tools, self-regulation, co-regulation and soft law) the Commission concluded that they would be unlikely to deliver a sufficient reduction in roaming charges, and that price caps for both wholesale and retail roaming charges would provide the greatest benefit to consumers. The competition cases regarding roaming charges were closed with the introduction of this regulation.⁹

- **Roaming II:** [*Regulation amending Regulation 717/2007 on roaming on public mobile telephone networks within the Community \(No 544/2009\)*](#) further reduced the wholesale and retail caps for voice calls, and introduced wholesale and retail caps for text messages and wholesale caps for data.¹⁰ It also provided for further annual reductions in the caps. To reduce bill shocks, operators were also required to notify consumers if their data usage reached €50.
- **Roaming III:** [*Regulation on roaming on public mobile communications networks within the Union \(recast\) \(No 531/2012\)*](#) consolidated previous roaming regulations into a single document and implemented further phased reductions of the wholesale and retail caps for voice, text and data.¹¹ A separate implementing regulation introduced rules on the separate sale of roaming services within the EU.¹²
- **Roam like at Home:** [*Regulation laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation 531/2012 on roaming on public mobile communications networks within the Union \(No 2015/2120\)*](#), commonly known as the Telecommunications Single Market Regulation,¹³ established that retail roaming charges would be

⁸ [Regulation 717/2007 on roaming on public mobile telephone networks within the Community and amending Directive 2002/21/EC](#) 27 June 2007

⁹ Financial Times, [Brussels closes antitrust case on 'roaming'](#) July 19 2007 [subscription required] [accessed 30 June 2017]

¹⁰ [Regulation 544/2009 amending Regulation 717/2007 on roaming on public mobile telephone networks within the Community and Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services](#) 12 July 2006

¹¹ [Regulation 531/2012 on roaming on public mobile communications networks within the Union \(recast\)](#) 13 June 2012

¹² [Commission Implementing Regulation 1203/2012 of 14 December 2012 on the separate sale of regulated retail roaming services within the Union](#) 15 December 2012

¹³ [Regulation 2015/2120 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation 531/2012 on roaming on public mobile communications networks within the Union](#) 25 Nov 2015

abolished from 2017. This policy is referred to as 'Roam like at Home' (RLAH) because it means that customers will be able to use their domestic mobile allowances when travelling within the EEA. RLAH and the implementing legislation required to realise it are discussed in Section 2 of this briefing paper. As an intermediate step, the Regulation further reduced the roaming caps from 30 April 2016 (**RLAH Intermediate Step**).

The Roaming Regulations apply throughout the EEA, meaning that they apply to Norway, Iceland and Liechtenstein as well as the 28 EU Member States.

1.5 Effects of regulation on roaming charges

Since the introduction of the Roaming Regulations, the cost of regulated roaming has decreased by over 90% for calls, SMS and data.¹⁴

The European Parliament estimates that:

consumers saved €9.6 billion during the 2009 to 2013 period owing to the fall in roaming charges, and that they will save even more in the years ahead.¹⁵

Figure 2 illustrates the reduction in EU wholesale and retail price caps that took place from 2007 to 2017, as well as the proposed further reductions in price caps from 2017 through 2022 (subject to a review in 2019).

Figure 2

Evolution of Wholesale and Retail Caps for Voice Calls and Data Services

Euro excl. VAT

| | Outbound Call (€/min) | | SMS (€/min) | | Data (€/GB) | |
|--------------------------------|-----------------------|--------|-------------|--------|-------------|--------|
| | Wholesale | Retail | Wholesale | Retail | Wholesale | Retail |
| Roaming I | | | | | | |
| 30-Aug-07 | 0.30 | 0.49 | - | - | - | - |
| 30-Aug-08 | 0.28 | 0.46 | - | - | - | - |
| Roaming II | | | | | | |
| 01-Jul-09 | 0.26 | 0.43 | 0.04 | 0.11 | 1024.00 | - |
| 01-Jul-10 | 0.22 | 0.39 | 0.04 | 0.11 | 819.20 | - |
| 01-Jul-11 | 0.18 | 0.35 | 0.04 | 0.11 | 512.00 | - |
| Roaming III | | | | | | |
| 01-Jul-12 | 0.14 | 0.29 | 0.03 | 0.09 | 256.00 | 700.00 |
| 01-Jul-13 | 0.10 | 0.24 | 0.02 | 0.08 | 153.60 | 450.00 |
| 01-Jul-14 | 0.05 | 0.19 | 0.02 | 0.06 | 51.20 | 200.00 |
| 01-Jul-15 | 0.05 | 0.19 | 0.02 | 0.06 | 51.20 | 200.00 |
| RLAH Intermediate Step) | | | | | | |

¹⁴ European Commission, [End of roaming charges for travellers in the EU in 2017](#) 6 April 2017 [accessed 15 June 2017]

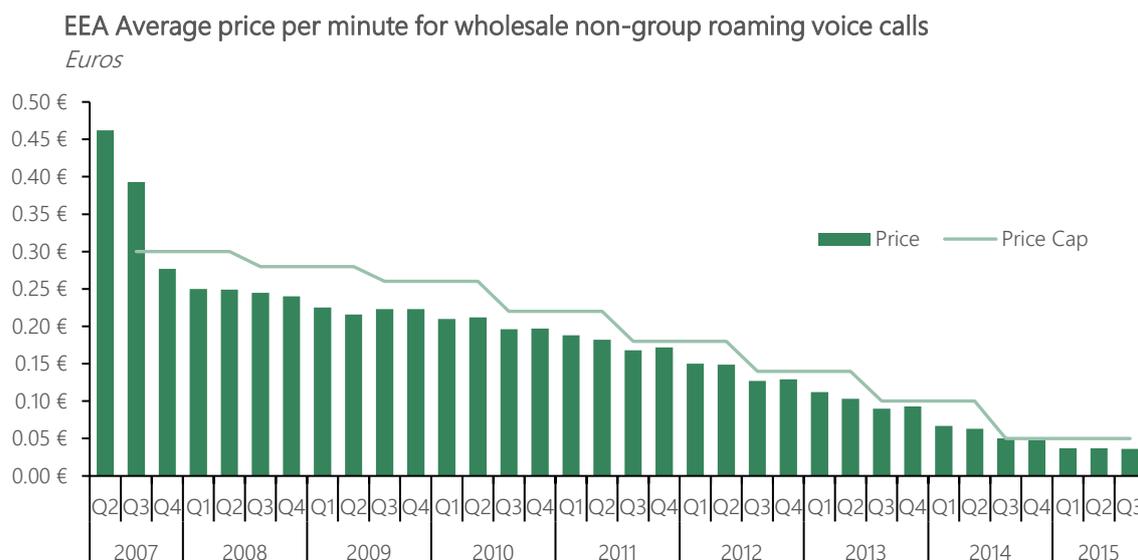
¹⁵ European Parliament Research Service, [EU abolishes mobile roaming charges](#) (June 2017) [accessed 15 June 2017]

| | | | | | | |
|-------------|------|-------------------|------|-------------------|-------|--------------------|
| 30-Apr-16 | 0.05 | Domestic +0.05 | 0.02 | Domestic +0.02 | 51.20 | Domestic +50.00 |
| RLAH | | | | | | |
| 15-Jun-17 | 0.03 | 0 | 0.01 | 0 | 7.70 | 0 |
| 01-Jan-18 | 0.03 | 0 | 0.01 | 0 | 6.00 | 0 |
| 01-Jan-19 | 0.03 | 0 | 0.01 | 0 | 4.50 | 0 |
| 01-Jan-20 | 0.03 | 0 | 0.01 | 0 | 3.50 | 0 |
| 01-Jan-21 | 0.03 | 0 | 0.01 | 0 | 3.00 | 0 |
| 01-Jan-22 | 0.03 | 0 | 0.01 | 0 | 2.50 | 0 |

Sources: European Commission, [End of roaming charges in the EU in 2017](#)
 Marlies Van der Wee et al, [International Roaming in the EU: Historic Overview, Challenges, Opportunities and Solutions](#)

Benchmark data collected by the Body of European Regulators of Electronic Communications (BEREC) shows that actual prices have also declined steadily since the EU first intervened in 2007.¹⁶ Figure 3 shows the decline in wholesale prices for roaming voice calls within the EEA alongside the reduction in the wholesale caps.

Figure 3



Sources: Berec, [International Roaming BEREC Benchmark Data Report April – September 2015](#)

¹⁶ BEREC, [International Roaming BEREC Benchmark Data Report April – September 2016](#) [accessed 27 June 2017]

2. The abolition of retail roaming surcharges in the EU ('Roam like at Home')

In June 2015, the European Parliament and the Council of the European Union agreed to abolish additional charges for roaming for people periodically travelling within the EU from 15 June 2017.¹⁷ The European Parliament Research Service provides more information on this in their *At a Glance* paper, [EU abolishes mobile roaming charges](#) (June 2017).¹⁸

This initiative is referred to as 'Roam like at Home' because it means that, subject to a fair use policy, customers who are resident in or have stable links with the EU Member State in which they purchased mobile services will be able to use their domestic allowances for voice calls, text messages and data usage when engaging in periodic travel throughout the EEA, without incurring surcharges, as if they had never left the UK.

The Minister responsible for negotiating the detail of the package at the Council of the European Union on behalf of the UK, Ed Vaizey, said that Roam like at Home meant that:

Roughly a million Brits stay the night in Europe every day, and they spend around £350m a year on roaming charges. So by realising these changes, we're going to save British consumers millions of pounds a year.¹⁹

A summary of the main provisions of Roam like at Home is provided in Box 1 below.

Box 1: How Roam like at Home works

The basic principle

Roam like at Home (RLAH) means that, subject to a fair use policy, customers will be able to use their domestic allowance to call, text and surf on their mobile devices when travelling in the EEA, without incurring surcharges. RLAH entered into force on 15 June 2017.

Fair use policies

The Fair Use Regulation (See 2.1) clarifies aspects of the fair use policies that operators can choose to impose on consumers when providing Roam like at Home. It defines exceptional types of usage which are considered abusive or anomalous, which can result in surcharges being imposed.

Coverage

RLAH applies to customers who purchase mobile services in an EEA country in which they are resident or with which they have "stable links": stable links include "full-time and durable" employment

¹⁷ European Commission, [Commission welcomes agreement to end roaming charges and to guarantee an open Internet](#) 30 June 2015

¹⁸ European Parliament Research Service, [EU abolishes mobile roaming charges](#) June 2017

¹⁹ BBC, [Mobile phone roaming charges cut within EU](#) 30 April 2016 [accessed 15 June 2017]

relationships, including self-employment; “full-time recurring courses of study”; and posted workers and retired persons, if they involve a similar level of territorial presence.

If a customer’s existing contract permits roaming within the EEA (on any terms, including where a surcharge is applied), it must incorporate RLAH from 15 June 2017. Operators are allowed to continue to offer exclusively domestic services, but prohibited from circumventing the regulation by charging more for roaming-enabled services than for equivalent domestic-only offers.

Users are covered when roaming within the EEA, not when making international calls from the home country to other EEA countries.

Voice and SMS allowances

Voice and SMS roaming always count against a customer’s domestic allowance. If customers exceed their domestic allowance of SMS and minutes when roaming they can purchase domestic add-ons and continue to use these when roaming.

Data allowances

For unlimited domestic data allowances and those which cost less than the regulated wholesale rate, operators are permitted to limit the consumption of data by roaming customers to twice the amount of data that the retail value of their monthly contract (excluding VAT and handset costs) could purchase at the regulated wholesale rate. Operators can limit Pay-as-you-Go customers’ roaming data allowances to the amount of data that their remaining credit could purchase at the wholesale rate. The Appendix at the end of this briefing paper explains how these caps work in practice and provides examples.

Where these restrictions do not apply, data roaming simply counts against the customer’s domestic allowance. When customers exceed their domestic data allowance when roaming they can purchase domestic add-ons and use these when roaming.

Warnings and surcharges

If a customer spends a majority of their time abroad over a period of 4 months, and also consumes more data abroad than at home during this period, the operator can issue a warning. The customer then has two weeks to inform the operator about his or her travel situation before they decide whether they have breached the fair use policy, and whether surcharges should be imposed. If a user breaches the fair use policy, any surcharges imposed are capped at the level of the wholesale roaming price caps. If a dispute arises, the customer may complain to Ofcom.

For a more comprehensive account of how RLAH works, see the [guidelines](#) published by the Body of European Electronic Communications Regulators.²⁰ The European Commission has also published answers to various [FAQs](#).²¹

2.1 Implementing legislation

The RLAH Regulation required the EU institutions to develop two pieces of implementing legislation to make the provision of surcharge-free roaming commercially sustainable for operators.

The Wholesale Roaming Regulation

The Wholesale Roaming Regulation, [Regulation amending Regulation 531/2012 as regards rules for wholesale roaming markets \(2016/0185\)](#), lowered the maximum wholesale roaming charges that operators can

²⁰ BEREC, [Guidelines on Regulation \(EU\) No 531/2012, as amended by Regulation \(EU\) 2015/2120 and Commission Implementing Regulation \(EU\) 2016/2286 \(Retail Roaming Guidelines\)](#), 27 March 2017

²¹ European Commission, [Frequently asked questions | Roam like at home](#) Updated June 15 2017 [accessed June 15 2017]

charge each other when their customers access each other's networks, thereby reducing the cost of providing roaming services to consumers.²² Although the Member States were unwilling to reduce data caps to the levels proposed by the European Parliament, in a compromise a downward glide path was established which will see wholesale data roaming charges gradually fall from €7.7/GB in 2017 to €2.5/GB in 2022, as outlined in Table 2.²³ The Commission will review the wholesale rates at the end of 2019, with a preliminary assessment in December 2018.

Fair Use Regulation

The Fair Use Regulation, [*Commission Implementing Regulation laying down detailed rules on the application of FUP and on the methodology for assessing the sustainability of the abolition of retail roaming surcharges and on the application to be submitted by a roaming provider for the purposes of that assessment \(2016/2286\)*](#), defined the safeguards mobile operators are allowed to use against abusive and anomalous usage.²⁴ The Commission particularly wanted to prevent users from buying a cheaper contract in one Member State and then engaging in 'permanent roaming' in their home country.

Sustainability mechanism

The Fair Use Regulation also contains a sustainability mechanism that allows operators to introduce a roaming surcharge if they can prove that they cannot recover their costs from providing roaming services and that this would undermine their "domestic charging model", resulting in increased prices for non-roaming customers. To do so, they must apply to their National Regulatory Authority (Ofcom in the UK) which then determines whether they should be allowed to apply a surcharge, and at what level. The Minister for Digital, Matt Hancock wrote that:

sustainability is not likely to be a factor affecting UK operators and no strong opinions on it have been expressed.²⁵

²² [Regulation amending Regulation 531/2012 as regards rules for wholesale roaming markets \(2016/0185\)](#) Updated June 15 2017 (accessed June 15 2017)

²³ Data wholesale prices will be gradually reduced over 5 years: €7.7/GB (15/06/2017), €6/GB (01/01/2018), €4.5/GB (01/01/2019), €3.5/GB (01/01/2020), €3/GB (01/01/2021) and €2.5/GB (01/01/2022).

²⁴ [Commission Implementing Regulation 2016/2286 of 15 December 2016 laying down detailed rules on the application of FUP and on the methodology for assessing the sustainability of the abolition of retail roaming surcharges and on the application to be submitted by a roaming provider for the purposes of that assessment](#) 15 December 2016 http://ec.europa.eu/newsroom/dae/document.cfm?doc_id=40823

²⁵ DCMS, [Letter to Lord Boswell Letter to the Bill Cash \(implementing actions arising from the Connected Continent Regulation\)](#) 18 November 2016

2.2 Criticism of Roam like at Home

The waterbed effect

From the outset, concerns have been expressed by operators that achieving the political objective of surcharge-free roaming might result in a wider group of customers paying higher rates for domestic mobile bundles (known as the “waterbed effect”). The Wholesale Roaming Regulation and the Fair Use Regulation were designed to prevent this from happening.

Ed Vaizey, the Government Minister at the time, told the House of Commons European Scrutiny Committee that he did not think this would be an issue in the UK:

With regard to the matter of UK consumers incurring additional charges following the abolition of mobile roaming charges - the so-called ‘waterbed effect’ - I believe I should make it clear that should the MNOs fully pass on the costs of a cessation of mobile roaming charges to consumers, this would be symptomatic of there being a complete absence of competitiveness in this market; a situation that I believe is certainly not applicable to the UK’s domestic market.²⁶

The Minister added that any increase in cost:

...should be no more than £2.00 per annum per subscriber in the UK. It is my view that any ‘waterbed effect’ is likely to be much smaller than this value, should it manifest itself at all, and those on prepay and post-pay contracts may see differing amounts of increase.²⁷

Data allowances and surcharges

As the entry into force of Roam like at Home approached and operators clarified the fair use policies that they would be applying, commentators began to notice that some customers might not be able to use their entire domestic data allowance abroad, and could continue to incur surcharges in some circumstances. For example, a consumer and technology writer for *MoneySavingExpert*, wrote that:

[...] while the new rules will curb many of the extra costs faced by mobile users, it's emerged in the small print that many who have unlimited or competitively priced data allowances CAN still be charged extra roaming fees above a certain level of usage.²⁸

While this observation is correct, the confusion has partly arisen because media coverage of RLAH has tended to focus exclusively on the abolition of roaming charges and to ignore the exceptions in the Fair Use Regulation (see Section 2.1). However, few UK mobile operators

²⁶ DCMS, [Letter to Sir William Cash \(Telecommunications Single Market\)](#) 2 September 2015

²⁷ DCMS, [Letter to Sir William Cash \(Telecommunications Single Market\)](#) 2 September 2015

²⁸ Moneysavingexpert.com, Nick Durrant, [Revealed: EU 'ban' on mobile roaming charges WON'T stop firms charging some extra fees for data](#) 2 May 2017 [30 June 2017]

have chosen to apply the strictest permissible fair use policies in relation to data allowances (see Section 2.3) and under RLAH any surcharges imposed on those who breach operators' fair use policies will be limited to EU wholesale cap rates.

Exemptions from RLAH

As of June 2017, it was reported that 36 mobile operators - out of thousands, according to Commission officials - had applied to their national regulators to use the sustainability mechanism to temporarily continue to charge their consumers marginal roaming rates (See 2.1).²⁹ Ofcom confirmed, at the time of writing, that no UK operator had applied for an exemption.

2.3 How are UK mobile operators implementing Roam like at Home?

UK mobile operators (such as Vodafone, EE, Three and O2) were required under the RLAH Regulation to abolish roaming charges from 15 June 2017.

There is one exception: when it comes to contracts that include unlimited or very competitively priced data allowances, operators are permitted to limit users to a proportion of their domestic data allowance when roaming (see Appendix).

Mobile operators have the discretion to be less restrictive on their safeguards against abusive and anomalous usage than the EU Fair Use Regulation permits them to be, and, as shown below, none of the main UK Mobile Network Operators (MNOs) appear to have imposed the strictest allowable fair use policy. This means that customers of the UK MNOs are generally allowed their home allowance (or up to a maximum 12GB or 15GB when using data with Three or EE respectively).

| | Roaming data limit | Roaming minutes | Roaming texts |
|-----------------|--|-----------------|----------------|
| Vodafone | Home allowance | Home allowance | Home allowance |
| O2 | Home allowance | Home allowance | Home allowance |
| EE | 15GB/month | Home allowance | Home allowance |
| Three | 12GB a month (but no streaming or tethering) | Home allowance | Home allowance |

Roam like at Home is more challenging for Mobile Virtual Network Operators (MVNOs) for reasons outlined in Section 3.2 of this briefing paper. However, at the time of writing, UK MVNOs Sky and Asda Mobile

²⁹ Politico, [Roam like at home? Not so fast](#) 14 June 2017 [accessed 30 June 2017]

were allowing their customers to use their full domestic data allowance when roaming, and Tesco Mobile, Plusnet Mobile and giffgaff appeared to be applying more generous caps than the Fair Use Regulation permits them to. MVNOs iD and Virgin Mobile appear to have used the formula provided by the Commission to apply the strictest allowable caps.³⁰ (See Appendix for more information on how these caps are calculated.)

The consumer website MoneySavingExpert.com provides more detailed information about different data roaming offers on its webpages on [Cheap Mobile and Data Roaming](#).³¹

³⁰ iD provides an [online calculator](#) to help users calculate their roaming data allowance. Virgin Mobile 's [fair use policy](#) says that pay monthly customers' EEA roaming data allowance is "twice your monthly airtime cost (before VAT) divided by the current EU data wholesale capped rate."

³¹ MoneySavingExpert.com, [Cheap Mobile and Data Roaming](#), 15 June 2017 [accessed 30 June 2017]

3. Brexit and roaming charges

3.1 Applicability of the Roaming

Regulations pre- and post-Brexit

As EU legal acts, the Roaming Regulations will continue to apply in the UK until it ceases to be an EU member state. As Regulations are directly applicable rather than needing to be implemented by Member States, the Roaming Regulations will, by default, cease to apply to the UK when it leaves the EU. This is confirmed by a Brexit analysis produced for the European Parliament's Industry, Research and Energy (ITRE) Committee's issues.³² The World Trade Organisation (WTO) General Agreement on Trade in Services (GATS) does not include commitments on roaming charges that the UK could fall back on.

Summarising the situation up to the date of Brexit, the Minister of State for Digital and Culture (Matt Hancock) briefed the House of Commons European Scrutiny Committee that:

UK consumers will experience a period of free regulated roaming before the UK's exit from the EU.³³

More general information and explanation is available in the [Library Briefing Paper on Legislating for Brexit: directly applicable EU law](#).

3.2 Possible impact of Brexit

Higher prices for operators and consumers?

If the UK leaves the EU and the EEA without a replacement agreement on roaming, UK mobile operators will cease to be protected by the EU price caps on wholesale roaming charges when their customers use roaming services in EEA countries. EEA operators will consequently be free to apply higher wholesale roaming charges to UK operators, increasing the cost of providing roaming services in the EEA.

Following Brexit, UK operators would also be exempt from the EU prohibition on applying retail roaming surcharges to their customers when they use roaming services within the EEA, unless the Government chose to convert this restriction into domestic law (see section 3.4 of this briefing paper). UK operators would therefore be free to pass on any increase in the cost of wholesale roaming services through higher retail roaming charges, so UK customers may see higher prices.

In April 2017, the Broadband Stakeholder Group (BSG) cautioned that:

Should the UK not secure access for UK operators to wholesale roaming rates at or below the regulated caps, UK operators will

³² European Parliament Committee on Industry, Research and Energy (ITRE) [Contributions in relation to UK withdrawal from the European Union](#) 12 January 2017

³³ DCMS, [Letter to Lord Boswell \(Wholesale Roaming Regulation\)](#) 18 Nov 2016

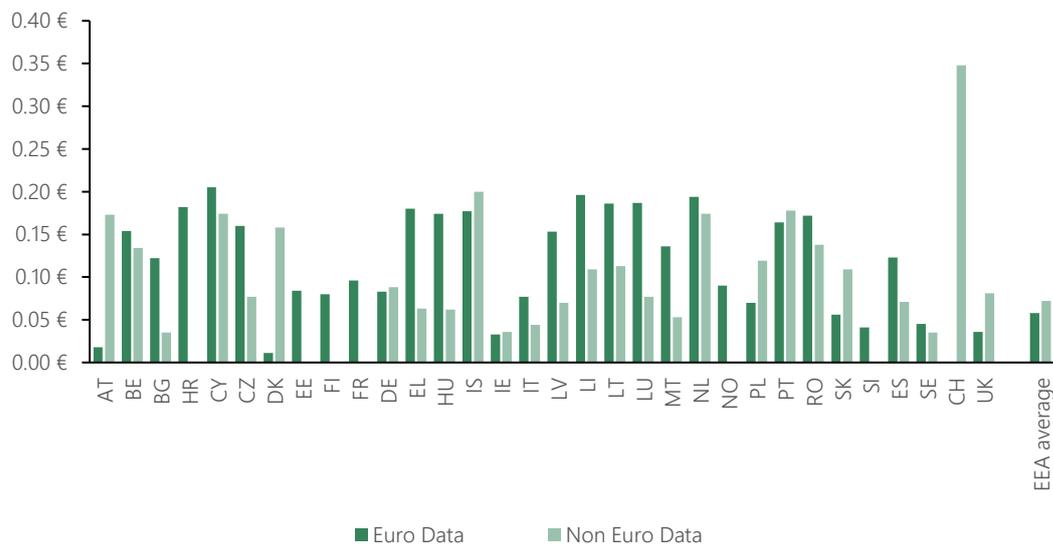
struggle to offer roaming services without increases to retail roaming charges.³⁴

In December 2016, Sharon White, Chief Executive of Ofcom, said that leaving the EU without putting alternative roaming arrangements in place would mean:

our mobile operators may be exposed to unfair costs, and our people and businesses could end up paying more than our European neighbours.³⁵

Data collected by the Board of European Regulators of Electronic Communications (BEREC) shows that retail roaming charges are significantly higher in Switzerland (CH) - the one country for which BEREC collects data that does not also participate in the Roaming Regulations.

Average retail data price per MB in Q2 2015 (prepaid + postpaid)
Euros



Commercial offerings as a substitute?

On the other hand, market factors could limit the anticipated increase in roaming charges. In April 2017, Matthew Hancock told the House of Commons European Scrutiny Committee that, if the UK does not secure an agreement with the EU to retain the effects of RLAH, commercial surcharge-free roaming offers could provide a substitute:

The UK's decision to leave the EU does not mean there will be an automatic reintroduction of roaming charges - for example, some operators already offer surcharge free roaming to their customers.³⁶

³⁴ Broadband Stakeholder Group, [Implications of Brexit on the Digital Communications Sector](#) April 2017

³⁵ Sharon White (Ofcom) [Making the right call: Making Brexit work for UK consumers of communications](#) 1 December 2016

³⁶ DCMS, [Letter to Sir William Cash](#) 20 April 2017

UK MNOs also have wholesale agreements in place with EEA operators, in line with and sometimes below the wholesale cap, and international groups are partly insulated against the loss of the wholesale cap as their affiliates can internalise the wholesale cost of providing roaming services at group level. Vodafone has suggested Brexit is unlikely to affect existing commercial arrangements of this kind.³⁷

Other stakeholders question the extent to which these factors will prevent an increase. A commentator for the Bruegel think tank noted that no UK MNO covers all EEA countries, and anticipated some increase in charges.³⁸ The Broadband Stakeholder Group told the Lords EU Committee that the asymmetry in travel volumes between the UK and the EU could create an incentive for EU operators to increase the wholesale charges they apply to UK networks.³⁹ When the four UK MNOs were asked by Gizmodo if they would commit to not reintroducing roaming charges after Brexit, only Three was willing to do so, without clarifying whether this included a WTO-only exit scenario.⁴⁰

The House of Commons European Scrutiny Committee also questioned the Government's view that commercial offerings would act as a substitute. It wrote that surcharge-free roaming offers which predated RLAH were partly enabled by the EU wholesale roaming caps, and that once those caps no longer applied "the viability of these offers may be affected, or the increased cost passed on to consumers".⁴¹

Impact on Mobile Virtual Network Operators?

Because MVNOs do not own a domestic network they cannot offset the cost of outbound wholesale roaming charges with income generated by inbound roaming. The impact of no longer being protected by the wholesale caps would thus be amplified for MVNOs.

For example, Sky Mobile told the Lords EU Committee that if the UK were no longer to benefit from the EU's regulated wholesale price caps:

it is unlikely that operators such as Sky could offer domestic tariffs when consumers are travelling abroad.⁴²

³⁷ The Telegraph, [Mobile phone roaming charges won't go up after Brexit](#) 28 February 2017

³⁸ Brueghel, [Mobile roaming, Brexit, and unintended consequences](#) 28 June 2016 [accessed 30 June 2017].

According to the website <http://dfmonitor.eu> Vodafone has a presence in 12 EU Member States. Hutchison (3-Mobile) is present in 5, Telefonica (including O2) is present in 3, and BT (EE) has no overseas presence.

³⁹ House of Lords, [Oral evidence: Brexit: Future Trade between the UK and the EU](#) 20 October 2016

⁴⁰ Gizmodo, [Three Is The Only UK Network That Will Commit To Not Reinstating Roaming Charges After Brexit](#) 16 June 2017 [accessed 29 June 2017]

⁴¹ House of Commons European Scrutiny Committee, [Digital Single Market: Wholesale roaming charges, Fortieth Report HC 71-xxxvii](#) 25 April 2017

⁴² Sky, [Evidence to the Lords EU Internal Market Sub-Committee on the inquiry Brexit: future trade between the UK and the EU](#), October 2016

3.3 Retaining current roaming benefits after Brexit

The Government could seek to retain the benefits of the EU roaming regulations in a number of ways. Options that may be explored by the UK Government include:

- **European Economic Area membership:** if the UK re-joined the European Free Trade Association (EFTA) and became a party to the European Economic Area (EEA) Agreement with the EU, it could continue to participate in the EU Roaming Regulations. In this way Norway, Iceland and Liechtenstein benefit from the roaming caps, despite not being EU Member States.

Before the 2017 General Election, the Prime Minister's negotiating objectives for exiting the EU appeared to rule out membership of the EEA as a future model for the UK's relationship with the EU.⁴³

- **Standalone UK-EU agreement:** The Government could seek to conclude a standalone bilateral agreement with the EU to retain the effects of the Roaming Regulations for UK and EU citizens travelling between the UK and the EEA, and operators providing services. However, EU Commissioner Günther Oettinger told the European Parliament that a standalone UK-EU roaming agreement would be in breach of World Trade Organisation (WTO) Most Favoured Nation (MFN) rules, which require members to extend the same commitments made outside trade agreements with substantial sectoral coverage to all trading partners.⁴⁴
- **Free Trade Agreement:** The Government could seek to retain the benefits of the EU roaming regulations as part of a comprehensive Free Trade Agreement with the EU. This approach would not breach WTO rules. To date, no EU FTA with a third country includes provisions on mobile roaming, including the EU-Canada Comprehensive Economic and Trade Agreement (CETA). Switzerland does not have a roaming agreement with the EU, despite having extensive bilateral sectoral agreements with the EU and borders with five EEA countries.

From a technical point of view, incorporating roaming provisions into a UK-EU FTA would be relatively straightforward, as the UK has already fully implemented the EU Roaming Regulations. However, there may be some resistance from EEA countries whose MNOs would profit from being able to apply higher wholesale charges to UK operators.

⁴³ HMG, [The government's negotiating objectives for exiting the EU: PM speech](#) 17 January 2017

⁴⁴ Financial Times, [UK mobile users face return of steep roaming bills after Brexit](#) 29 December 2016 [accessed 30 June 2017]

- **Domestic legislation?** The Government could continue to prevent UK operators from applying surcharges to UK customers who use roaming services within the EEA by converting the ban on retail roaming charges into UK law. However, the House of Commons European Scrutiny Committee has questioned whether the Government could retain the wholesale caps through domestic law (see section 3.5 of this briefing paper). As the retail and wholesale caps have always been regarded as a package - the 2015 Government described the wholesale price caps as “a key enabler for the abolition of roaming charges”⁴⁵ - further analysis of the feasibility of retaining RLAH without the wholesale caps is necessary.

Detailed information and an overview of possible options for the UK’s trading relationships with the EU after Brexit is set out in the [Library Briefing Paper on Brexit: trade aspects](#).

3.4 Global roaming agreements

When the UK leaves the EU trade relations with non-EU countries will also be important. Any such global trade agreements could include provisions that would seek to achieve low roaming prices by mutual agreement. It has not previously been possible for the UK to conclude agreements of this kind because the EU has the exclusive competence to negotiate trade agreements with third countries.

A number of precedents exist. Examples include the Gulf Cooperation Council (GCC) agreement, which according to the OECD resulted in price reductions of “up to 70 percent”.⁴⁶ The Trans-Pacific Partnership Agreement (TPP) also includes provisions which would enable parties to implement mechanisms to reduce wholesale roaming charges.⁴⁷

ONS data shows that 72% of travel by UK residents in 2016 was to the EU, with the remaining 28% being to non-EU destinations.⁴⁸

3.5 Parliamentary scrutiny

House of Commons European Scrutiny Committee

The House of Commons European Scrutiny Committee examined the implications of Brexit for UK-EU mobile roaming as part of its scrutiny of the Wholesale Roaming Regulation.⁴⁹

⁴⁵ DCMS, [Explanatory Memorandum on European Documents – The Commission’s Report on the review of the wholesale roaming market](#) 1 July 2016

⁴⁶ Bourassa, F. [Developments in International Mobile Roaming OECD Digital Economy Papers, No. 249](#), page 12, 2016

⁴⁷ ZDNet, [TPP stops short of regulating global roaming rates](#) 6 November 2015

⁴⁸ ONS, [UK residents visits abroad](#) 18 May 2017 [accessed 30 June 2017]

⁴⁹ House of Commons, Digital Single Market: Wholesale Roaming, report chapters published on [14 September 2016](#), [18 January 2017](#), [8 February 2017](#), [29 March 2017](#), [25 April 2017](#).

In correspondence with the Committee, Matt Hancock, Minister of State for Digital, stated that the Great Repeal Bill would ensure that the same rules for roaming would apply after Brexit in the same way as before:

The Great Repeal Bill will end the authority of EU law. The same rules and laws will apply on the day after Brexit as they did before, including for roaming. Any decision to diverge will be taken after that point and an assessment of the likely impacts will be made at that time.⁵⁰

The European Scrutiny Committee questioned the Minister's view that the same rules and laws would apply on the day of exit for roaming, on the basis that the wholesale caps that EU operators apply to UK operators could not be retained solely through domestic law, because they are a reciprocal arrangement:

The Government would be able to cap the wholesale roaming charges that UK-based operators could impose on EU operators for using their networks, but could not require EU-based operators to reciprocate when UK consumers used EU networks. EU operators would, in consequence, be free to charge UK operators higher wholesale roaming charges.⁵¹

The European Scrutiny Committee said that it was important that this point be clarified at the earliest opportunity, and requested that the Minister commission a legal assessment of whether it would be possible to ensure the continuation of present roaming arrangements through the Great Repeal Bill, in the absence of any bilateral agreement.⁵²

The Minister did not provide such a legal assessment, writing that "internal Government legal advice is not publicly disclosable".⁵³ The Committee subsequently cleared the proposal from scrutiny.

House of Lords EU Internal Market Sub-Committee

As part of its inquiry *Brexit: trade in non-financial services*, the House of Lords EU Select Committee examined the implications of Brexit for mobile roaming charges. The Committee concluded that:

A key benefit for UK consumers provided by the EU is the forthcoming abolition of roaming charges. This will be put at risk by Brexit, unless specific provisions are included in a UK-EU FTA extending the cap on wholesale roaming charges to UK Mobile Network Operators (MNOs). We note that there are no such provisions in existing FTAs, and that the number of UK citizens travelling to other EU Member States may dis-incentivise EU-based MNOs to extend the cap to UK MNOs. Post-Brexit, the Government and regulators should also take steps to prevent UK

⁵⁰ DCMS, [Letter to Sir William Cash \(Wholesale Roaming Regulation\)](#) 16 March 2017

⁵¹ House of Commons European Scrutiny Committee, [Digital Single Market: Wholesale roaming charges, Thirty-seventh Report HC 71-xxxv](#) 29 March 2017

⁵² House of Commons European Scrutiny Committee, [Digital Single Market: Wholesale roaming charges, Thirty-seventh Report HC 71-xxxv](#) 29 March 2017

⁵³ DCMS, [Letter to Sir William Cash](#) 20 April 2017

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MNOs increasing retail charges for roaming services for UK consumers.⁵⁴

The inquiry received [evidence](#) from consultancy Oxera, which modelled the impact on retail and wholesale roaming charges, as well as on consumers and operators, of a WTO-only Brexit scenario.⁵⁵

The Government has not yet responded to the Lords EU Select Committee report.

⁵⁴ House of Lords EU Committee, [Brexit: trade in nonfinancial services](#) p51,14 March 2017

⁵⁵ Oxera, [Written evidence to the Lords EU Internal Market Sub-Committee](#), November 2016

4. Questions for the 2017 Parliament

Some unresolved questions about mobile roaming for the 2017 Parliament include:

- The Government has stated that the Great Repeal Bill means that “the same rules will apply after the UK leaves the EU, including for roaming.”⁵⁶
 - Which elements of the EU roaming regulations does the Government intend to retain in domestic law?
 - Does the Government believe that it can retain, through domestic law, the current cap on the wholesale charges that can be applied to UK operators by EU operators?
 - Is the Government considering retaining the current ban on retail roaming charges if it does not secure a reciprocal agreement with the EU to continue to apply the regulated wholesale price caps?
- To what extent will the Government prioritise retaining reciprocal UK-EU price caps on wholesale roaming charges in negotiations?
- What would the implications be for UK consumers and operators (including MVNOs) of the loss of the EU regulated wholesale caps?
- After the UK has left the EU, will the Government seek to include provisions that cap wholesale roaming prices in Free Trade Agreements with non-EU countries?

⁵⁶ DCMS, [Letter to Sir William Cash \(Wholesale Roaming Regulation\)](#) 16 March 2017

5. Appendix: Calculating Fair Use data allowances

Operators are allowed to cap the volume of data that their customers can use when roaming within the EEA only with contracts that include unlimited domestic data consumption or provide domestic data at rates below the EU regulated wholesale roaming cap.

For contracts of this kind, the most restrictive cap which operators are allowed to impose on their customers' data roaming allowances is calculated using the following formula:

$$\left(\frac{\text{monthly contract value (exclusive of VAT and handset costs)}}{\text{wholesale data roaming cap (£/Gigabyte)}} \right) \times 2 = \text{roaming data allowance (Gigabytes)}$$

If this calculation produces a figure that exceeds the customer's domestic data allowance, then the customer receives their full domestic allowance. The EU wholesale data roaming cap is €7.7 per Gigabyte (GB). This is converted into sterling using the exchange rate published in the European Journal on 1 May, which was 0.8452 in 2017, making the UK wholesale cap in 2017 £6.50.

Example: A domestic bundle of mobile services for 20 pounds excluding VAT per month for unlimited voice, unlimited SMS and 7 GB of volume. This is an open data bundle, as the cost per GB of data is lower than the EU wholesale data roaming cap of £6.50. Using the above formula, the customer shall be able to consume roaming data volumes at the domestic retail price of at least 6.15 GB.

For pre-pay contracts (pay-as-you-go) which offer domestic data at rates below the wholesale roaming cap, the formula is:

$$\frac{\text{remaining credit}}{\text{wholesale data roaming cap (£/Gigabyte)}} = \text{remaining roaming data (GB)}$$

Example: A pre-pay customer has 15 pounds (excl. VAT) of remaining credit when starting to roam in the EEA. The domestic rate the customer would pay for data is £3.75 per GB (excl. VAT), meaning that the customer would be able to consume up to 4 GB of data domestically. Using the formula, while the wholesale data cap is 7.7 Euro per GB (£6.5), the roaming provider may limit data roaming volumes offered at the domestic price to 2.3 GB.

As explained in section 2.3 of this briefing paper, at the time of writing most UK operators had chosen not to apply these formula. Where they have chosen to apply the formula, the volume of roaming data that is available to their customers at domestic prices is likely to increase between 2017 and 2022, as the wholesale data roaming cap is gradually reduced from €7.7 to €2.5 per Gigabyte.

For a comprehensive account of how the fair use policy works see the [guidelines](#) published by the Body of European Electronic Communications Regulators. A more informal explanation is provided [here](#).

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