

Roam like at home as of 15 June 2017?

CRA – Coelho Ribeiro e Associados, SCARL

Jaime Medeiros

Portugal

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The European Parliament approved last 6 April maximum wholesale roaming price, following the politic agreement reached at the beginning of the year.

EU negotiators agreed on the following wholesale caps:

- 3.2 cents per minute of voice call, as of 15 June 2017
- 1 cent per SMS, as of 15 June 2017
- A step by step reduction over 5 years for data caps decreasing from €7.7 per GB (as of 15 June 2017) to €6 per GB (as of 1 January 2018), €4.5 per GB (as of 1 January 2019), €3.5 per GB (as of 1 January 2020), €3 per GB (as of 1 January 2021) and €2.5 per GB (as of 1 January 2022).

This informal agreement was the last piece of a long and complex puzzle that started back in 2013 with the first draft proposal of the Telecom Single Market (TSM) regulation¹. The final text was approved in the end of 2015 - Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 - 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 (EU) No 531/2012 on roaming on public mobile communications networks within the Union.

Regulation (EU) No 531/2012 established *the policy objective that the difference between roaming and domestic tariffs should approach zero. However, the ultimate aim of eliminating the difference between domestic charges and roaming charges cannot be attained in a sustainable manner with the observed level of wholesale charges*². Therefore the TSM Regulation amended the Regulation (EU) No 531/2012 by inserting

¹ The draft proposal regulation can be found at http://eur-lex.europa.eu/procedure/EN/2013_309

² Whereas 22 of the TSM Regulation.



a new article 6a setting out that *retail roaming surcharges should be abolished from 15 June 2017, provided that the issues currently observed in the wholesale roaming markets have been addressed*. In this respect, the Commission was deemed to submit an *appropriate legislative proposal preceded by a public consultation, to amend the wholesale charges for regulated roaming services set out in this Regulation or to provide for another solution to address the issues identified at wholesale level with a view to abolishing retail roaming surcharges by 15 June 2017*³.

The *solution* referred to in that article 19.2 is the informal political agreement reached between the European Parliament, the Council and the Commission at the beginning of the year, approved by the Parliament the 6 April.

It's worth to note that the initial proposal from the Commission – dated of June 2016 – was to cap wholesale roaming charges at €0.04/min, €0.01/SMS and €0.0085/MB.

The "roam like at home" mechanism is melted with fair use policies and measures to avoid abusive or anomalous usage of the system⁴. National regulatory authorities (NRAs) have also powers to intervene in case the end of roaming charges in a specific market leads to price increase for domestic customers.

In this respect, the Body of European Regulators for Electronic Communications (BEREC) has published on the 28th March its BEREC Guidelines on Regulation (EU) No. 531/2012 as amended by Regulation (EU) 2015/2120 and Commission Implementing Regulation (EU) 2016/2286, at the retail level⁵. These Guidelines are complementary to the provisions set out in the Roaming Regulation and NRAs are to take them into *utmost account* when supervising the Roaming Regulation in their Member States.

But how operators will react to this informal political agreement of the Parliament, the Council and the Commission? Are they planning to change their Terms & Conditions in order to enlarge the “service benefit” and reduce the “core” part of a user’s contract? In this respect, it is important to note that, at the express request of Apritel (the Portuguese association of operators) ANACOM - the Portuguese NRA for communications - has approved, by decision of 20 February 2017, the opening of the procedure to amend the Regulation on pre-contractual and contractual information (Regulation no. 829/2016 of 23 August).

³ According to article 19.2 of the TSM Regulation.

⁴ Commission Implementing Regulation (EU) 2016/2286 of 15 December 2016 laying down detailed rules on the application of fair use policy 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

⁵ Guidelines can be accessed at http://berec.europa.eu/eng/news_and_publications/whats_new/4302-berec-adopts-guidelines-on-regulation-eu-no-5312012-retail-roaming-guidelines