

The Consumer Voice in Europe

BEREC OPINION ON THE REVIEW OF THE INTRA-EU COMMUNICATIONS REGULATION

BEUC response to call for input



Contact: Cláudio Teixeira – digital@beuc.eu

BUREAU EUROPÉEN DES UNIONS DE CONSOMMATEURS AISBL | DER EUROPÄISCHE VERBRAUCHERVERBAND
Rue d'Arlon 80, B-1040 Brussels • Tel. +32 (0)2 743 15 90 • www.twitter.com/beuc • www.beuc.eu
EC register for interest representatives: identification number 9505781573-45



Co-funded by the European Union

Ref: BEUC-X-2022-123 - 05/12/2022

Why it matters to consumers

Consumers who call someone abroad inside the EU are often faced with huge bills. Prohibitive process mean that consumers are often pushed to think twice before calling friends or family across borders. Consumers should be able to communicate across borders wherever they are in the EU/EEA, without having to worry about incurring in disproportionate costs. Roaming fees are now history thanks to EU rules: the same must happen with intra-EU calls.

Summary

BEUC welcomes the opportunity to comment on the Call for input for BEREC's opinion about the Review of the Intra-EU Communications Regulation¹.

'Roam Like at Home' has been an EU-wide success story for consumers and businesses alike. EU regulatory intervention at retail and wholesale level made this change possible. However, the project of a true single market for digital and telecommunication services has not yet been fully achieved. The missing element is ending the price differentiation for intra-EU communications.

The introduction of price caps under the Intra-EU Communications Regulation² in 2018 was a welcomed first step to address this problem. However, substantial price differences remain between domestic and international communications within the EU, hindering the establishment of a Single Market for Telecommunications and ultimately harming consumers.

Recital 53 of the latest Roaming Regulation³, adopted in 6 April 2022, calls on the European Commission to assess the effects of the existing price caps under the Intra-EU Communications rules and "determine whether and to what extent there is an ongoing need to reduce the caps in order to protect consumers".

BEREC's opinion should reflect its latest data on consumption patterns of Intra-EU communication services, which shows that the introduction of the Intra EU price caps has not changed the international communication market substantially. Prices often remain prohibitively high when compared to domestic prices. This continues to represent a barrier to the functioning of the internal market and is fundamentally unfair to consumers.

The example of the Roaming regulation proves that only ambitious regulatory intervention to eliminate surcharges, bringing the price cap down to the same levels of domestic rates, can resolve the problem. Completing the Single Market for telecommunications stands to

¹ BEREC Call for input available at: <https://www.berec.europa.eu/en/public-consultations/ongoing-public-consultations-and-calls-for-inputs/call-for-input-about-the-review-of-the-intra-eu-communications-regulation>

² Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009: <http://data.europa.eu/eli/reg/2018/1971/oj>

³ Regulation (EU) 2022/612 of 6 April 2022 on roaming on public mobile communications networks within the Union (recast): <https://eur-lex.europa.eu/eli/reg/2022/612/oj>

benefit both consumers and businesses alike: similar to 'Roam Like at Home' it would unlock an untapped source of consumption and revenue, meaning a win-win for both consumers and operators.

Contents

1. General comments.....	4
2. Establishing a true Single Market for telecommunications is long overdue.....	4
3. Intra-EU communications surcharges are confusing, disproportionate and unjustified.....	5
4. How intra-EU communications surcharges are harming consumers	6
5. Recommendations and next steps: making Intra-EU Communications rules work for consumers	7

1. General comments

With the end of roaming charges in the EU, **the continuation of surcharges for intra-EU communications continues to stand out** as a particularly problematic and unjustified practice from a consumer perspective. Consumers who call someone abroad inside the EU are faced with high bills and often must think twice before calling friends or family across borders.

With the adoption of the new EU Roaming rules, EU **legislators recognised the necessity to address this issue, as the last standing obstacle to achieve a full Single Market** for Telecommunications.

Recital 53 of the latest Roaming Regulation of 6 April 2022⁴ is a clear call on the European Commission to **assess the effects of the existing price caps** and “determine whether and to what extent there is an **ongoing need to reduce the caps in order to protect consumers**”. The text recognises that European consumers are not always able to distinguish between access to electronic communications services while roaming and intra-EU communications, pointing out that “parallels can be drawn between these two markets from a consumer perspective.”

BEUC welcomes that the importance of this issue has been underlined and fully supports the call on the European Commission to come back with a clear analysis and proposals on this matter.

We have long advocated⁵ in favour the creation of a **true single market for digital and telecommunications services** and the **removal of any differentiation between national and intra-EU communications**.

2. Establishing a true Single Market for telecommunications is long overdue

BEUC has consistently called on the EU institutions over the past decade⁶ to **establish a true single market for digital and telecommunication services**. A significant step in this direction was taken in 2016 with abolishment of roaming fees, ensuring that consumers could travel and use telecoms services in the EU without facing exorbitant costs and bill shocks.

However, this **the single market for telecommunications remains unachieved**, as the surcharges applied by telecom operators on intra-EU communications still exist. The prices charged by telecommunications operators for placing international calls across the borders of EU member states **are still many times higher than the prices currently practiced at national level** or when roaming within the EU. Such prices, often prohibitive for consumers, continue to represent a **barrier to the functioning of the internal market**.

⁴ Regulation (EU) 2022/612 of the European Parliament and of the Council of 6 April 2022 on roaming on public mobile communications networks within the Union (recast). <https://eur-lex.europa.eu/eli/reg/2022/612/oj>

⁵ See BEUC position for the trilogue negotiations for the Roaming regulation review:

https://www.beuc.eu/sites/default/files/publications/beuc-x-2021-105_roaming_trilogue_recommendations.pdf

⁶ <https://www.beuc.eu/sites/default/files/publications/2011-09865-01-e.pdf>

The **introduction of price caps under the Intra-EU Communications rules⁷** in 2018 **was a welcomed first step** to address this problem. However, the **latest data from the Body of European Regulators of Telecommunications (BEREC)⁸** on the consumption patterns of Intra-EU communication services **confirms** that the introduction of the price caps⁹ has **failed to substantially change the international communications market**.

Substantial price differences remain between domestic communications and those terminating in another Member State, both for fixed and mobile. **Higher, often prohibitive prices actively discourage and deter consumers from using traditional telecommunications services for intra-EU communications.**

Consumers are often left with no choice but to look for alternative digital services (e.g. instant messaging services, video conference platforms). Preventing consumers from resorting to traditional telecom services is **especially penalising for those who are most vulnerable**, effectively excluding consumers due to difficulties of accessibility (e.g. lack of access to an internet connection) or are simply not “tech savvy” when it comes to the use of the new digital means of communication.¹⁰

On the contrary, as the experience with Roaming demonstrates, lower prices encourage consumers to use telecommunications services. Data shows that **eliminating surcharges for cross-border communications stands to exponentially increase the usage** of such services.¹¹

Moreover, a **true Digital Single Market for telecommunications services cannot be achieved while discrimination and unfair differentiations remain** between national and intra-EU communications. In a single market, the country code to which consumers are **calling or texting should not matter** within the EU.

Ending surcharges to intra-EU communications is necessary to finally achieve a true single market for digital and telecommunication services. There **should be no discrimination or differentiations** between national and intra-EU communications.

3. Intra-EU communications surcharges are confusing, disproportionate and unjustified

Following the abolition of Roaming surcharges in 2016, those for intra-EU communications should have logically followed. In the context of Single Market for telecommunications without borders, the **price for this type of communications should, as a principle, be the same as for national communications**. European consumers should be able to use fixed and mobile services freely to communicate with someone in another EU Member State without fear of bill shocks.

The current differentiation in pricing applied by telecom operators is not only **confusing, but ultimately disproportionate and unjustified from a consumer perspective:**

⁷ Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32018R1971>

⁸ Intra-EU communications BEREC Benchmark Report, April 2021 – March 2022, p. 7: <https://www.berec.europa.eu/en/document-categories/berec/reports/intra-eu-communications-berec-benchmark-report-april-2021-march-2022>

⁹ <https://digital-strategy.ec.europa.eu/en/policies/intra-eu-calls>

¹⁰ https://www.beuc.eu/sites/default/files/publications/beuc-x-2017-007_international_calls.pdf

¹¹ <https://europa.eu/eurobarometer/surveys/detail/2232>

- **Confusing:** as recognised by EU legislators themselves¹², consumers “do not always distinguish between access to electronic communications services while roaming [...] and intra-EU communications” and are often not aware that the Roaming Regulation does not apply to international calls. The cross-border nature of both types of communications confuses consumers regarding the scope of the rules and the reason for a distinction between the abolition of roaming charges - when calling across borders from another EU Member State - and the imposition of intra-EU communications surcharges - when calling to that same (another) EU Member State from home.

- **Disproportionate:** the actual costs that telecom providers incur to connect customers to a foreign network do not substantially differ from domestic connections. Already back in 2013, the European Commission impact assessment for the first Roaming regulation showed that telecom operators **do not face significantly higher costs** for connecting calls from one to another EU Member State¹³.

- **Unjustified:** in the context of the Single Market and given the latest market trends: Over the last years, the continuous deployment of latest generation connectivity infrastructure such as 4G and, more recently 5G, has only increased the efficiency of the network infrastructure, which has translated in more and better connectivity. The latest Ericsson Mobility Report 2022 confirms that the deployment of 5G will accelerate the current global trends of soaring telecom subscriptions and falling prices.¹⁴

4. How intra-EU communications surcharges are harming consumers

Disproportionate price differences continue to prevail between domestic voice and text communications and those terminating in another Member State, pushing consumers away from using traditional telecommunication services altogether and driving them into alternative digital services.

Indeed, telecom operators have often opposed reducing the cost of intra-EU calls by arguing that consumers can simply **resort to ‘free’ services for placing international calls**, such as online messaging or videocall apps. However, telecoms services and OTT communications services cannot be perceived as simply interchangeable. Telecoms services are still more widespread, in some instances of higher quality and have a wider reach and interoperability than other electronic communication services which rely on data connectivity (e.g. OTT services).

In addition, over reliance on internet services penalises more those who are most vulnerable, **especially those consumers who are less ‘tech savvy’** (e.g. those most elderly), or who do not have access to a smartphone at all. Moreover, the use of these services requires high-speed broadband access, something which is not universally guaranteed or available.

Indeed, even a IPSOS survey¹⁵ commissioned by the Telecoms representative ETNO revealed that 67% of consumers who indicate not to use online messaging or videocall apps for placing international calls give as their main reason the fact that the people they want to speak to cannot be reached via an app. 36% of those who did not use apps or similar services cite quality problems, as well as privacy concerns.

¹² Regulation (EU) 2022/612 of 6 April 2022 on Roaming, Recital 53.

¹³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2013:0331:FIN>

¹⁴ <https://www.ericsson.com/49d3a0/assets/local/reports-papers/mobility-report/documents/2022/ericsson-mobility-report-june-2022.pdf>

¹⁵ IPSOS survey in full available at:

https://etno.eu/datas/press_corner/ipsos_EU_Consumer_Survey_Apr.2017.pdf

Telecom operators also argue that customers in demand of intra-EU communications can already find competitive offers on the market, as most operators provide **special bundled offers which include intra-EU communications**. However, such **offers are not enough for most consumers**. Although special offers may prove to be attractive for certain business customers and consumers with a very significant consumption of intra-EU communications, **the terms of those offers are often not attractive for the majority of consumers**, who have more occasional, unpredictable, or relatively low volumes of intra-EU communications. This range of consumers remains the most affected. Moreover, the most recent data from BEREC¹⁶ ultimately reveals that the market dynamics remain mostly unchanged, confirming that the overall offers provided, and the prices practiced by telecom operators **remain unattractive for consumers across the board**.

The Roaming example proves that an **ambitious regulatory intervention to eliminate surcharges and reduce prices** stands to benefit both consumers and businesses alike, unlocking an untapped source of consumption and revenue, meaning a win-win for both consumers and operators.

EU legislators should therefore ensure that the **price of an electronic communication service is the same regardless of whether the service is delivered domestically or whether it crosses a border** and terminates in a different EU Member State. Telecom providers should only charge the justifiable and objective cost (plus reasonable profit margin) of a call or text message to a recipient customer in another Member State.

5. Recommendations and next steps: making Intra-EU Communications rules work for consumers

The review of the Intra-EU Communications rules is a **key opportunity that EU legislators should not pass on** to deliver a true single market for fixed and mobile telecommunications services, which works for both consumers and businesses.

In 2018, Regulation 2018/1971 (BEREC Regulation) amended Regulation 2015/2120 to introduce price caps for regulated intra-EU communications. In order to ensure consistent and effective protection of consumers on intra-EU communications, **BEUC recommends these rules to be further amended to introduce key improvements**.

The review should introduce regulatory obligations **to put an end to retail surcharges for intra-EU communications**. Operators should only be able to additionally charge relevant direct costs that are objectively justified and demonstrated. **Appropriate safeguards should also be introduced**: for instance, to ensure legal certainty and prevent abuses, the BEREC Guidelines on intra-EU communications¹⁷ could be updated to introduce clear guidelines on its general principles. Together with national regulatory authorities, the European Commission could also be tasked with additional competences to closely monitor the activities of telecom operators in this regard.

At the very least, the proposal should introduce a principle of phasing-out of the retail price differences between electronic communications services terminating in the same Member State and those terminating in another Member State, to ensure that the

¹⁶ Intra-EU communications BEREC Benchmark Report, April 2021 – March 2022:

<https://www.berec.europa.eu/en/document-categories/berec/reports/intra-eu-communications-berec-benchmark-report-april-2021-march-2022>

¹⁷ BEREC Guidelines on Intra-EU communications:

https://www.berec.europa.eu/sites/default/files/files/document_register_store/2019/3/BoR_%2819%29_35_BE_REC_Guidelines_on_intra-EU_communications_final.pdf

price caps currently predicted are substantially reduced over time. Ultimately, the price caps on intra-EU communications should aim to reach the prices practiced for domestic communications.

BEUC once again congratulates BEREC for its overall work and hopes these comments can help it further inform and strengthen its position.

ENDS