

The Consumer Voice in Europe

INTRA-EU COMMUNICATIONS: CLOSING THE CONNECTIVITY GAP OF THE EU TELECOMS SINGLE MARKET

BEUC recommendations for trilogue negotiations on the Gigabit
Infrastructure Act proposal



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Why it matters to consumers

Consumers who call someone in another EU country are often faced with huge bills. This is because there are expensive surcharges which telecom operators can charge for this type of call which make consumers think twice before calling friends or family across a border inside the EU. But consumers should be able to communicate with friends, family or work relations in another EU country wherever they are in the EU/EEA and without having to worry about paying disproportionate, unjustified costs which should not exist in a Single Market. Roaming fees are history thanks to EU rules: the same must happen with intra-EU communications surcharges.

Summary

'Roam Like at Home' has been an EU-wide success story for consumers and businesses alike. It was EU regulatory intervention at retail and wholesale level which made this change possible. However, the project of a true Single Market for digital and telecommunication services is incomplete. The missing link is ending the price differentiation for intra-EU communications, which continues to restrict consumers' ability to freely communicate in the EU Single Market.

Consumers who call someone living abroad but inside the EU are faced with higher charges. The disproportionate price differences which continue to prevail between EU countries actively push consumers away from traditional telecommunication services despite their own preferences, driving them into using "free" digital services, such as messaging platforms and video conferencing services, which carry significant associated risks for consumers, e.g. privacy or personal data protection.

EU legislators recognised this problem in the recent Roaming Regulation of 2022 and called on the European Commission to assess the effects of the existing price caps under current intra-EU communications rules. In its assessment, the Commission concluded that these rules are "protecting consumers from excessive retail prices" and did not rule out future price hikes should they expire. But the current intra-EU communications rules are now set to expire on 14 May 2024 and there is only a small window in which to review them.

BEUC welcomes the timely initiative of the European Parliament to address this issue in discussions on the Gigabit Infrastructure Act (GIA) proposal, and fully supports the European Parliament proposal to not only maintain or reduce the current price caps, but to abolish retail surcharges on intra-EU communications altogether.

As the trilogue negotiations on the GIA proposal enter its decisive stage, BEUC calls on legislators to renew and extend the intra-EU communications rules and fully abolish retail surcharges by introducing a new article to the GIA proposal (article 16a). This will help create a true digital and telecommunication services which also delivers for consumers.

BEUC therefore recommends that EU legislators support the European Parliament position on the GIA proposal and introduce a provision which amends Regulation 2015/2120 in order to abolish retail surcharges on Intra-EU communications.

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1. Time to make intra-EU communications rules work for consumers

1.1. End surcharges, complete the EU telecoms Single Market

As the **trilogue negotiations on the Gigabit Infrastructure Act (GIA) proposal** enter their decisive stage, BEUC calls on legislators to take full advantage of the opportunity presented by this proposal, and support the European Parliament position to **not only maintain or reduce** the current price caps, but to **abolish retail surcharges on intra-EU communications altogether**.

BEUC strongly supports **the European Parliament position, which introduces a new article to the GIA proposal (article 16a)** amending Regulation 2015/2120 to “**abolish retail surcharges for regulated intra-Union communications to ensure that consumers are not charged excessive prices for making number-based interpersonal communications originating in the Member State of the consumer’s domestic provider and terminating at any fixed or mobile number in another Member State**”.¹

In accordance with the position of the European Parliament, the tariffs for intra-EU communications should not be higher than those applied for domestic communications. Telecom operators should only be able to **additionally charge the justifiable and objective cost** (relevant direct costs that are objectively justified and demonstrated) of a call or text message to a recipient customer in another EU Member State.²

In addition, **appropriate safeguards should be introduced**³ to ensure legal certainty and prevent abuses: the **BEREC Guidelines on intra-EU communications**⁴ **should be updated** to introduce clear guidelines setting out criteria for determining the objectively justified direct costs. The **European Commission**, together with BEREC, should also be tasked with **additional competences to closely monitor the activities of telecom operators** in this regard and assess the evolution of intra-EU communication tariffs.

At the very least, the GIA proposal must ensure that the current intra-EU communications rules are **renewed and extended in order to effectively end** the price differentiation between domestic, roaming and intra-EU communications services within the EU.

1.2. Gigabit Infrastructure Act: the right choice to urgently renew and extend intra-EU communications rules

The review of the intra-EU Communications rules must take place **before the current rules expire on 14 May 2024**. This review **does not require a new regulation**, but simply an **amendment to Regulation 2015/2120** (Open Internet Regulation).⁵

The **Gigabit Infrastructure Act** is currently the **single legislative proposal** where the **renewal of the rules has been proposed**, and the **only legislative proposal that can be adopted before the current rules expire** this year.

¹ Report on the proposal for a regulation of the European Parliament and of the Council on measures to reduce the cost of deploying gigabit electronic communications networks and repealing Directive 2014/61/EU (Gigabit Infrastructure Act), A9-0275/2023, 25 September 2023: https://www.europarl.europa.eu/doceo/document/A-9-2023-0275_EN.html.

² Ibid., Article 16a (3), replacing Article 5a of Regulation 2015/2120 (Open Internet Regulation).

³ Ibid., Article 16a (3), replacing Article 5a of Regulation 2015/2120 (Open Internet Regulation).

⁴ BEREC Guidelines on Intra-EU communications, 7 March 2019:

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

⁵ Regulation (EU) 2015/2120 of 25 November 2015 laying down measures concerning open internet access (Open Internet Regulation): <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015R2120>

The solution proposed by the European Parliament position to introduce a **new Article 16a in the GIA proposal** is, in fact, quite similar to the solution adopted by EU legislators in Regulation 2018/1971 (BEREC Regulation)⁶, which amended the Open Internet Regulation to introduce the current intra-EU communications rules back in 2018.

The **GIA proposal is the only adequate legislative instrument** to ensure a **seamless renewal and extension of these rules**, thus preventing legal uncertainty and loss of protection for consumers, which must be avoided at all costs. **EU legislators must not allow this opportunity** to lapse and should instead ensure that European consumers continue to benefit from adequate levels of protection.

2. Establishing a true telecommunications Single Market is long overdue

Since the end of roaming charges in the EU, **the application of surcharges for intra-EU communications** by telecom operators **has continued to stand out** as an **incomprehensible and unjustified practice** from a consumer perspective. Consumers who call or text someone living in another EU/EEA country are faced with higher charges than if they are on holiday abroad and call home. It means that they must often think twice before calling or texting friends and family across borders.

These higher, often prohibitive prices actively **discourage and deter consumers from using traditional telecommunications services for intra-EU communications**, who are often left with no choice but to resort to other digital services (e.g. instant messaging services, video conference platforms) despite their own preferences.

Preventing consumers from resorting to traditional telecom services is **especially penalising for those most vulnerable**, effectively excluding consumers from accessing services due to difficulties of accessibility (e.g. lack of access to an internet connection) or because they are simply not "tech savvy" when it comes to the use of new digital means of communication.⁷

EU legislators first recognised this problem in 2018. In order to reduce the prices of electronic communications between EU Member States, the Regulation 2018/1971 (BEREC Regulation, amending Regulation 2015/2120) was adopted to **introduce mandatory price caps for intra-EU communications**.⁸ As a result, and since 15 May 2019, "*any retail price (excluding VAT) charged to consumers for regulated intra-EU communications should not exceed EUR 0.19 per minute for calls and EUR 0.06 per SMS message.*"⁹

The **introduction of price caps in 2019 was a welcome first step** to address this problem. However, the **current price caps are still unjustifiably high as substantial price differences remain** between domestic communications and those terminating in another Member State, both for fixed and mobile.

⁶ 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>

⁷ BEUC Factsheet on International calls, 2017: https://www.beuc.eu/sites/default/files/publications/beuc-x-2017-007_international_calls.pdf

⁸ Regulation (EU) 2018/1971 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>

⁹ Ibid., Article 50.

The latest data from the **Body of European Regulators of Electronic Communications (BEREC)**¹⁰ shows that, despite the introduction of price caps, **confusing, differentiated tariffs** by telecom operators **continue to discourage consumers from calling across borders to other EU countries**, as the retail prices offered by telecom operators are often excessively high when compared to their own domestic prices.

In 2022, **EU legislators acknowledged this problem in the Roaming Regulation review**¹¹. Recital 53 establishes a link between the end of roaming charges and the continuation of intra-EU Communications surcharges, calling on the European Commission to **assess the effects of the existing price caps** and a potential **“need to reduce the caps in order to protect consumers”**, at least one year before the current rules are set to expire on 14 May 2024.

On 15 May 2023, the European Commission assessment¹² on the matter concluded that these rules are indeed **“protecting consumers from excessive retail prices”**, noting that **price hikes beyond the current caps could not be ruled out** should the measures be allowed to expire and not extended beyond **14 May 2024**.

Ove the past decades, **BEUC has advocated**¹³ for the creation of a **true Single Market for digital and telecommunications services** and the **removal of any differentiation between national and intra-EU communications**.

From a consumer perspective, **surcharges for intra-EU communications remain the last standing hurdle to achieve an EU telecommunications Single Market**. Although a significant step in this direction was taken in 2016 with the abolishment of roaming fees, **the single market for telecommunications remains unachieved**, as the surcharges still applied by telecom operators, often prohibitive for consumers, continue to represent **a significant barrier to the functioning of the internal market**.

Following the **abolition of Roaming charges**, those for **intra-EU communications should have logically followed**. In the context of a Single Market for telecommunications without borders, the **prices for domestic and intra-EU communications should not be differentiated on the basis of the country code** to which consumers are calling or texting. As a principle, **the price for placing an intra-EU call should be the same as for roaming or domestic 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.

Consequently, ensuring 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** is the only way to achieve a true single market for digital and telecommunication services which equally delivers for consumers, not only businesses.

BEUC therefore welcomes the recognition by the European Parliament that the rules must be urgently reviewed as part of the **Gigabit Infrastructure Act proposal** and support its proposal to fully **abolish retail surcharges on intra-EU communications**.

¹⁰ BEREC Opinion on the Review of the Intra-EU Communications Regulation, 9 March 2023: <https://www.berec.europa.eu/en/document-categories/berec/opinions/berec-opinion-on-the-review-of-the-intra-eu-communications-regulation>

¹¹ Recital 53, Regulation (EU) 2022/612 on roaming on public mobile communications networks within the Union (recast): <https://eur-lex.europa.eu/eli/reg/2022/612/oj>

¹² Commission Staff Working Document on the intra-EU communications provisions of Regulation (EU) 2018/1971 of the European Parliament and the Council amending Regulation (EU) 2015/2120, 15 May 2023: <https://digital-strategy.ec.europa.eu/en/library/eu-rules-intra-eu-calls-staff-working-document>

¹³ BEUC position for the trilogue negotiations for the Roaming regulation review, 15 November 2021: https://www.beuc.eu/sites/default/files/publications/beuc-x-2021-105_roaming_trilogue_recommendations.pdf

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

From a consumer perspective, the current differentiation in pricing for intra-EU communications applied by telecom operators is not only **confusing, but ultimately disproportionate and unjustified**:

- Confusing:

Both EU legislators¹⁴ and EU telecoms regulators agree that the **price differentiation of intra-EU communications is confusing for consumers**. The **BEREC opinion**¹⁵ on the review of the intra-EU communications rules recognises that consumers are not always able to “**understand the distinction between the charges of intra-EU services and roaming services**”¹⁶ as they are often not aware that the Roaming Regulation does not apply to international calls within the EU.

The cross-border nature of both types of communications services **confuses consumers** regarding the scope of these rules, who **fail to see a reason for distinguishing** between the **abolition of roaming charges** - when calling your home country from another EU Member State - and the **imposition of intra-EU communications surcharges** - when calling an EU Member State from home.

- Disproportionate:

These surcharges are also **disproportionate**, considering that the estimated costs of providing intra-EU communications **do not substantially differ from those of domestic connections**. There is a **substantial difference** between the current (high) price caps and the actual (lower) costs that telecom operators incur to provide these services.

The BEREC opinion on the review of the intra-EU Communications rules¹⁷ concludes that the “**current price caps are significantly higher**” **than the actual wholesale costs** (costs which telecom operators charge each other for connecting customers to a foreign network). Already back in 2013, the European Commission impact assessment for the first Roaming Regulation showed that **telecom operators did not face significantly higher costs** for connecting calls from one EU Member State to another.¹⁸

- Unjustified:

There is no **longer any justification for keeping the same price caps** introduced in 2019, given that the average prices for intra-EU calls and texts have **consistently fallen since the caps were introduced in 2019 and continue to decline**. According to the latest BEREC data from 2023¹⁹, **retail prices are currently situated well below the**

¹⁴ Regulation (EU) 2022/612 of 6 April 2022 on Roaming, Recital 53. 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.*”

¹⁵ BEREC Opinion on the Review of the Intra-EU Communications Regulation, 9 March 2023: <https://www.berec.europa.eu/en/document-categories/berec/opinions/berec-opinion-on-the-review-of-the-intra-eu-communications-regulation>

¹⁶ Ibid, p. 37.

¹⁷ Ibid, p. 35.

¹⁸ European Commission, Impact Assessment on the measures concerning the European Single Market for electronic communications and to achieve a Connected Continent, 2013: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2013:0331:FIN>

¹⁹ 4th Intra-EU communications BEREC Benchmark Report (April 2022 – March 2023), 5 October 2023: <https://www.berec.europa.eu/en/document-categories/berec/reports/4th-intra-eu-communications-berec-benchmark-report-april-2022-march-2023>

respective price caps of 0.19 EUR/minute and 0.06 EUR/SMS (e.g. currently **three times lower** than the cap for **mobile calls at 0.06 EUR/min**, and **six times lower** than the cap for **fixed calls at 0.03 EUR/min**).

Moreover, the continuous deployment of new generation connectivity infrastructure over the past years (such as 4G, 5G, and soon 6G) has only **increased the efficiency of the network infrastructure**, translating into more and better connectivity. Given the latest market trends, the deployment of 5G is only expected to accelerate the current global trends of **soaring telecom subscriptions and overall falling prices**.²⁰

The **decline in prices** has also been **confirmed by telecom operators**, who agree that the average price continues to “**steadily decline by approximately 12-15% per year**.”²¹ Moreover, BEREC also concludes in its opinion that the current **price caps** have been **more than enough to ensure adequate remuneration for telecom operators**, noting that since its introduction in 2019, **national regulators “have not received any application for additional charges** on top of price caps **in any Member State”** from telecom operators.

Therefore, the logical conclusion is that the current price caps should be removed: following the steady decline in wholesale costs and retail prices, costs for placing **intra-EU communications no longer differ much from the costs of domestic connections**, rendering any current surcharges on these services unjustifiable.

4. How intra-EU communications surcharges are affecting consumers

The fact remains that, despite the price caps introduced in 2019, **disproportionate price differences continue to prevail between domestic voice and text communications and those terminating in another Member State**. According to the latest BEREC data for the period of 2022/2023²², the tariffs significantly vary depending on consumers’ home country, the type of call (fixed or mobile phone) or even their telecom operator.

For instance, in the year of 2023, the **same international fixed call could cost almost twenty times more per minute** in Bulgaria or Portugal (where telecom operators apply the full price of 0.19 EUR allowed by the cap) than in Slovakia or France (where no surcharge was applied).²³ Moreover, the same call on a **mobile phone could also cost almost twenty times more per minute** in Slovenia or Lithuania (where telecom operators apply the price of 0.18 EUR) than in the Netherlands or in Spain (where surcharges are around 0.01/0.02 EUR).²⁴

The disproportionate price differences which continue to prevail between EU Member States are **actively pushing consumers away from using traditional telecommunication services** altogether and **driving them into using digital platform services**, regardless of their actual preferences.

²⁰ Ericsson Mobility Report 2022: <https://www.ericsson.com/49d3a0/assets/local/reports-papers/mobility-report/documents/2022/ericsson-mobility-report-june-2022.pdf>

²¹ Joint Telecom Industry Statement on the Gigabit Infrastructure Act, 26 September 2023: https://www.ectaportal.com/images/Press_Releases/260923_Joint_Statement_on_GIA_FINAL.pdf

²² BEREC Intra-EU communications Benchmark Report, April 2022 - March 2023, 5 October 2023: <https://www.berec.europa.eu/system/files/2023-10/BoR%20%2823%29%20167%204th%20Intra%20EEA%20communications%20BEREC%20Benchmark%20Data%20Report%202023.pdf>

²³ Ibid, p. 32.

²⁴ Ibid, p. 35.

Telecom operators have often been opposed to reducing the cost of intra-EU calls by arguing that consumers can simply **resort to** other electronic communication services **for placing international calls**, such as **'free' online services** which rely on data connectivity, e.g. over-the-top (OTT) messaging services, such as online messaging and video conferencing services.

However, **traditional telecom services and OTT communications services cannot be perceived as interchangeable**. Telecom services are still more widely used, in some instances **providing higher quality of service and with a wider reach, reliability and interoperability** than other electronic communication services which must rely on data connectivity. **BEREC²⁵ confirms** this in its recent opinion on the review of the intra-EU Communications rules: **only "traditional electronic communication services like voice service or SMS are interoperable, regardless of their size, number of users and their market position, whereas it is not the case" for digital alternatives, while pointing out their "lack of interoperability between each other"**.

This lack of interoperability ultimately means that consumers only have an alternative insofar as all their social contacts are on the same social messaging application. An IPSOS survey²⁶ commissioned by the telecoms interest group ETNO revealed that 67% of consumers who do not use online messaging or videocall apps for placing international calls say the main reason is because the people they want to speak to **cannot be reached via such an app**. More than a third (36%) of those who did not use apps or similar services cite **quality of service problems**, as well as **fundamental rights and privacy concerns**.

In addition, over-reliance on internet services tends to **penalise those who are most vulnerable, especially those consumers who are less 'tech savvy'** (e.g. the elderly)²⁷, 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.

Telco operators also argue that customers in demand of intra-EU communications can already find competitive offers on the market, as most operators provide **alternative tariff plans, special bundled offers which include intra-EU communications**. However, **such offers are not enough for most consumers**.

Although special offers could prove to be attractive for certain business customers and consumers (e.g. those with a very significant consumption of intra-EU communications), **the terms of those offers are often unattractive for the majority of consumers**, who have more occasional, unpredictable, or relatively low volumes of intra-EU communications. The latest BEREC data from 2023 also confirms that such **alternative tariff plans "were not so popular"** with consumers across the board,²⁸ as the percentages of subscribers using intra-EU communications services with regulated prices (price caps) **were substantially higher**.

²⁵ BEREC Opinion on the Review of the Intra-EU Communications Regulation, 9 March 2023, p. 28-32: <https://www.berec.europa.eu/en/document-categories/berec/opinions/berec-opinion-on-the-review-of-the-intra-eu-communications-regulation>.

²⁶ Consumer Survey, European Telecommunications Network Operators' Association / IPSOS, April 2017: https://etno.eu/datas/press_corner/ipsos_EU_Consumer_Survey_Apr.2017.pdf

²⁷ Concerns equally validated by the BEREC Opinion on the Review of the Intra-EU Communications Regulation, 9 March 2023, p.31.

²⁸ BEREC Intra-EU communications Benchmark Report, April 2022 - March 2023, 5 October 2023, p. 6: <https://www.berec.europa.eu/system/files/2023-10/BoR%20%2823%29%20167%204th%20Intra%20EEA%20communications%20BEREC%20Benchmark%20Data%20Report%202023.pdf>

The end of roaming charges in the EU has proven that an **ambitious regulatory intervention to eliminate surcharges and lower prices** can encourage consumers to use telecommunications services. Eliminating surcharges would bring prices down to the same levels of domestic rates, which would benefit both consumers and businesses alike. Available data shows that **eliminating surcharges for cross-border communications stands to exponentially increase the usage** of such services,²⁹ unlocking an untapped source of consumption and revenue, meaning a win-win for both consumers and operators.

ENDS

