

The Consumer Voice in Europe

Ref.: BEUC-X-2016-113/MGO/GBE/rs

2 November 2016

European consumers demand ambition in the transition towards the end of roaming fees

Dear Deputy Ambassador,

I write on behalf of The European Consumer Organisation (BEUC) to urge you to set an ambitious pathway that will deliver the end of roaming fees for consumers.

We are very disappointed about **the position voted in COREPER on 26 October** which is not a sufficiently-ambitious basis to fulfil the objectives of the EU's roaming policy, in particular to end roaming fees for European consumers.

A single market for digital and telecommunication services is a win for Europe as a whole. It's a win for consumers because it allows them to stay connected while travelling within the EU and spend that extra money for example on other communication services. It's a win for mobile providers because it generates increased consumer demand that they can monetise and thus increase their network investments.

European consumers expect the end of roaming fees in June 2017

For many years, consumers have denounced the abusive situation they suffer in the EU's roaming markets, and now expect what has been promised to them: the abolition of roaming fees in June 2017. Unfortunately the roaming reform¹ that was agreed in October 2015 puts too much fine print under such a promise.

All decisions that will be made over the coming weeks - namely the reform of wholesale roaming markets and the rules on "Fair Use" policies - need to be designed in a way that enables the long-term ambition of establishing a functional single market for consumers as soon as possible after June 2017.

The end of roaming fees must be sustainable: ambitious wholesale reform is necessary

Without an ambitious wholesale market reform, there is a risk that consumers will pay the consequences: mobile providers warn that they could increase domestic prices or stop providing roaming services altogether, hampering competition. All these scenarios gravely affect consumers' interests and must be avoided by bringing wholesale caps as low as is economically feasible.

.../...

¹ Regulation 531/2012 as amended by Regulation 2120/2015.

When reforming wholesale markets, the co-legislators' objective should be to inject more competition, not less, into wholesale markets. Setting wholesale caps as low as possible would put pressure on national markets where wholesale competition is less efficient to boost competition so that real costs are brought down. This would be a win-win scenario for mobile providers (lower operational and wholesale costs), and for retail consumers (lower retail prices).

In addition, with lower wholesale caps, Fair Use Policies will be less restrictive for consumers. When a consumer travels, if the domestic operator has higher wholesale costs to pay for the roaming use, it will have an incentive to limit the consumer's Roam Like at Home right as much as possible. Instead, if wholesale caps are low, the risk for the home operator decreases, and so the operator can be more permissive with its Fair Use policies.

The agreed wholesale caps in COREPER on 26 October (10€/Gb in 2017 down to 5€/Gb in 2021) as well as the ones proposed by the European Commission for voice (4 eurocents/min) and data (8.5euros/Gb) are too high and must be lowered further. We urge you to work towards a final position that includes lower wholesale caps and a pre-defined timeline of further decreases of these caps, along the lines of what has been proposed in the Parliament's draft Report².

Fair Use Policies should exist exclusively to prevent "abusive or anomalous usage" during a transitory period

The legal basis for the Fair Use Policies³ establishes that the objective of these policies is to prevent the theoretical situations where consumers' behaviour could be considered abusive or anomalous. Therefore, in order to respect consumers' right to Roam Like at Home (RLAH), "Fair Use" policies need to be strictly limited to and exclusively focused on the prevention of such hypothetical situations.

Ensuring that such rules on Fair Use Policies are designed in a consumer-friendly manner is essential. Otherwise, there is a significant risk that mobile providers will abuse them in their own interest. The rules need to be as clear as possible for consumers, providers and regulators in order to understand, comply with and enforce them.

In addition, these Fair Use Policies should only be allowed during a transitory period while markets and providers adapt to the creation of a fully-functional single market. In the longer term and once the use of roaming fees has been gradually abandoned, fair use policies should disappear. The Review clause of the Roaming Regulation should therefore be amended to reflect this objective.

Yours faithfully,

Monique Goyens
Director General

² <http://bit.ly/2eyU5OD>

³ Regulation 531/2012 as amended by Regulation 2120/2015.