



Commission for
Communications Regulation

Roaming Surcharge Application

Information for Operators applying for authorisation to apply a roaming surcharge

Information Notice

Reference: ComReg 17/65

Version: Final

Date: 24/07/2017

An Coimisiún um Rialáil Cumarsáide

Commission for Communications Regulation

1 Lárcheantar na nDugaí, Sráid na nGildeanna, BÁC 1 D01 E4X0

One Dockland Central, Guild Street, Dublin 1, Ireland, D01 E4X0

Teil | Tel +353 1 804 9600 Rphost | Email info@comreg.ie Suíomh | Website www.comreg.ie

Background

1. Operators will be aware that “Roam Like at Home” provisions have come into effect from 15 June 2017. EU legislation now dictates that roaming providers are not permitted to levy any additional charges on top of domestic retail prices for regulated roaming services (surcharges), subject to limited exceptions provided for in legislation. This Information Notice concerns one such exception, the application of surcharges to ensure the sustainability of a roaming provider’s domestic charging model under Regulation 6c of Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (“**Roaming III Regulation**”). The Roaming III Regulation provides that roaming providers may apply to their national regulatory authority (“**NRA**”) for authorisation to apply a surcharge in specific and exceptional circumstances with a view to ensuring the sustainability of their domestic charging models.
2. ComReg, as the national regulatory authority in Ireland, has the responsibility¹ for assessing and making decisions on applications from Irish operators who are seeking to apply surcharges to end users who use mobile roaming off their Irish network when roaming in the EU². To date, ComReg has not received any applications from operators to apply a surcharge under Regulation 6c.
3. The purpose of this document is to outline the application process to be followed by roaming providers that choose to submit applications to ComReg for authorisation to apply a roaming surcharge.

¹ Where implementation was necessary, the Roaming III Regulation and the Commission Implementing Regulation have been implemented into Irish law by virtue of Communications (Mobile Telephone Roaming) Regulations 2013 (SI 228 of 2013) and Communications (Mobile Telephone Roaming) Regulations 2013 (Amendment) Regulations 2017 (SI 240 of 2017).

² The Roaming III Regulation has also been adopted by EEA member states Norway, Liechtenstein and Iceland.

4. The Roaming III Regulation sets out the procedure for seeking authorisation to apply a sustainability surcharge. This is expanded on in 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 (“**Commission Implementing Regulation**”). Additional guidance is provided in Body of European Regulators for Electronic Communications (“**BEREC**”) guidelines on Regulation 531/2012, as amended by Regulation (EU) 2015/2120 and Commission Implementing Regulation (EU) 2016/2286, see BoR (17) 56 (“**BEREC Retail Roaming Guidelines**”). ComReg advises operators to review these materials in detail before submitting an application for authorisation of a sustainability surcharge. The BEREC Retail Roaming Guidelines can be accessed [here](#).
5. As highlighted at paragraph 160 of the BEREC Retail Roaming Guidelines, operators who wish to apply surcharges should comply with transparency rules, for example, advanced publication of price changes and contractual issues that require an extraordinary right to terminate contracts.

Form of application

6. Applications should be made in the form recommended by the BEREC Retail Roaming Guidelines. ComReg would like to bring operators attention to the template in spreadsheet form provided in the BEREC Retail Roaming Guidelines. ComReg does not wish, at this time, to make any amendments to this template and so, subject to further review by ComReg, all applications should be accompanied by a completed version of this spreadsheet, available at [Annex 1](#) of the BEREC Retail Roaming Guidelines.
7. All applications should be supported by a declaration from an accountant as outlined in paragraph 164 of the BEREC Retail Roaming Guidelines and provided for in Article 6 of the Commission Implementing Regulation. This declaration should confirm that the data supplied is correctly drawn from the operator’s business systems and the methodology for the projections has been followed consistently and correctly.
8. ComReg will assess each application based on the methodology for assessing the sustainability of the abolition of retail roaming surcharges set out in the Commission Implementing Regulation and will take utmost account of the BEREC Retail Roaming Guidelines.

Timeline for considering application

9. As outlined in Article 6c(4) of the Roaming III Regulation, a NRA must make a decision on the application within one month of receipt of the application, whether that is to approve the application, refuse the application, or provide an extension to the one-month time-limit on the grounds that the application is manifestly unfounded or further information is required. Where ComReg considers that further information is required or that an application is manifestly unfounded, a further two-month period may be allowed for a final determination on the application under Article 6c(4). During this period, ComReg will provide the applying operator with an opportunity to be heard. ComReg would like to stress that the obligation to submit the necessary information rests at all times with the applying operator. ComReg will not consider an application to have been received until all of the information outlined in the Commission Implementing Regulation and the BEREC Retail Roaming Guidelines has been supplied.

How to apply

10. All applications should be clearly marked “Roaming Surcharge Application” and emailed to: wholesalepricing@comreg.ie
11. ComReg intends to publish an information notice following consideration of each application.