

Commission proposal	Suggested changes	Justification
Recital 14		
<p>In order to allow for the development of a more efficient, integrated and competitive market for roaming services, there should be no restrictions preventing undertakings from effectively negotiating wholesale access for the purpose of providing roaming services. Obstacles to access to such wholesale roaming services, due to differences in negotiating power and in the degree of infrastructure ownership of undertakings, should be removed. To that end, wholesale roaming access agreements should respect the principle of technology neutrality and ensure all operators an equal and fair opportunity to accessing all networks and technologies available and be negotiated in good faith allowing the roaming provider to offer retail roaming services equivalent to the services offered domestically.(...)</p>	<p>In order to allow for the development of a more efficient, integrated and competitive market for roaming services, there should be no restrictions preventing undertakings from effectively negotiating wholesale access for the purpose of providing roaming services. Obstacles to access to such wholesale roaming services, due to differences in negotiating power and in the degree of infrastructure ownership of undertakings, should be removed. To that end, wholesale roaming access agreements should <del>respect the principle of technology neutrality and ensure all operators an equal and fair opportunity to accessing all networks and technologies available</del> and be negotiated in good faith <del>allowing the roaming provider to offer retail roaming services equivalent to the services offered domestically</del>.(...)</p>	<p>Changes in wording of this recital aim at ensuring consistency with changes proposed to the Article 3.1 and 3.3 (see below).</p>
Recital 15		
<p>Therefore an obligation to meet reasonable requests for wholesale access to public mobile communications networks for the purpose of providing roaming services should be laid down. Such access should be in line with the needs of those seeking access. End users of services requiring modern technologies and retail roaming services should be able to enjoy the same quality of service when roaming as domestically. A wholesale roaming access obligation should therefore ensure that access seekers can replicate the retail services offered domestically, unless mobile network operators requested to provide access can prove that it is technically unfeasible to do so (...)</p>	<p>Therefore an obligation to meet reasonable requests for wholesale access to public mobile communications networks for the purpose of providing roaming services should be laid down. Such access should be in line with the needs of those seeking access. End users of services requiring modern technologies and retail roaming services should be able to enjoy the same quality of service <i>without limitations introduced specifically for roaming services. when roaming as domestically. A wholesale roaming access obligation should therefore ensure that access seekers can replicate the retail services offered domestically, unless mobile network operators requested to provide access can prove that it is technically unfeasible to do so</i>.(...)</p>	<p>Changes in wording of this recital aim at ensuring consistency with changes proposed to the Article 5.2 (see below).</p>
Recital 21		

<p>In order to allow for the development of more efficient, integrated and competitive markets for roaming services, when negotiating wholesale roaming access for the purpose of providing retail roaming services, operators should be given the possibility to negotiate innovative wholesale pricing schemes which are not directly linked to volumes actually consumed, such as flat payments, upfront commitments or capacity-based contracts, or pricing schemes that reflect variations of demand across the year. Machine-to-machine communications, referred to in recital 249 of Directive (EU) 2018/1972, are not excluded from the scope of this Regulation and the relevant wholesale roaming access obligations. However, agreements on permanent roaming are subject to commercial negotiations and can be agreed by two roaming partners in the wholesale roaming contract. In order to allow the development of more efficient and competitive markets for machine-to-machine communications, it is expected that operators will increasingly respond to and accept all reasonable requests for roaming agreements on reasonable terms and explicitly allowing permanent roaming for machine-to-machine. They should be able to establish flexible roaming agreements enabling wholesale roaming services and to apply tariff schemes which are not based on the volume of consumed data but on alternative schemes, for example on the number of connected machines per month. In that context, in the event of a cross-border dispute, the parties involved should have recourse to the dispute resolution procedure laid down in Article 27 of Directive (EU) 2018/1972. (...)</p>	<p>In order to allow for the development of more efficient, integrated and competitive markets for roaming services, when negotiating wholesale roaming access for the purpose of providing retail roaming services, operators should be given the possibility to negotiate innovative wholesale pricing schemes which are not directly linked to volumes actually consumed, such as flat payments, upfront commitments or capacity-based contracts, or pricing schemes that reflect variations of demand across the year. Machine-to-machine communications, referred to in recital 249 of Directive (EU) 2018/1972, are not excluded from the scope of this Regulation and the relevant wholesale roaming access obligations. However, agreements on permanent roaming are subject to commercial negotiations and can be agreed by two roaming partners in the wholesale roaming contract. <del><i>In order to allow the development of more efficient and competitive markets for machine-to-machine communications, it is expected that operators will increasingly respond to and accept all reasonable requests for roaming agreements on reasonable terms and explicitly allowing permanent roaming for machine-to-machine.</i></del> <i>They</i> Roaming partners should be able to establish flexible roaming agreements enabling wholesale roaming services and to apply tariff schemes which are not based on the volume of consumed data but on alternative schemes, for example on the number of connected machines per month. In that context, in the event of a cross-border dispute, the parties involved should have recourse to the dispute resolution procedure laid down in Article 27 of Directive (EU) 2018/1972. (...)</p>	<p>The sentence mentioning permanent roaming is drafted in a rather vague manner and therefore is likely to generate disputes and high degree of uncertainty, therefore we propose to delete it. There is no market failure in the dynamically growing market of M2M connectivity. To the contrary, various business models are developing and regulatory uncertainty will have the potential to hinder that development. We are convinced that any reference made in a legislative instrument should be made on the basis of clearly identified competitive problems, which is however not the case when it comes to M2M connectivity in roaming.</p>
<p>Recital 28</p>		
<p>Roaming customers should, to the greatest extent possible, be able to use the retail services that they subscribe to and benefit from the same level of</p>	<p>Roaming customers should, to the greatest extent possible, be able to use the retail services that they subscribe to and benefit from the same level of quality of service as at home, when</p>	<p>Home operator doesn't have control over the visited network. There are objective limitations of providing "same quality" of roaming services as at home. Therefore</p>

<p>quality of service as at home, when roaming in the Union. To that end, roaming providers should take the necessary measures to ensure that regulated retail roaming services are provided under the same conditions as if such services were consumed domestically. In particular, the same quality of service should be offered to customers when roaming, if technically feasible.</p>	<p>roaming in the Union. <del>To that end, roaming providers should take the necessary measures to ensure that regulated retail roaming services are provided under the same conditions as if such services were consumed domestically. In particular, the same quality of service should be offered to customers when roaming, if technically feasible.</del></p>	<p>the sentence should be deleted in order to avoid disputes and legal uncertainty. We are developing the topic of quality of roaming services compared to domestic services in our justification to Amendments 1, 2 and 4.</p>
<p>Recital 42</p>		
<p>To ensure that roaming customers have uninterrupted and effective access to emergency services, free of charge, visited networks should not levy any wholesale charge related to such emergency communications on the roaming providers.</p>	<p>To ensure that roaming customers have uninterrupted and effective access to emergency services, free of charge, visited networks should not levy any wholesale charge related to <i>the types</i> of emergency communications on the roaming providers <i>that are agreed between them and home networks</i>.</p>	<p>The aim of this amendment is to ensure consistency with the changes proposed to Art. 13. See our comments in the justification for Amendment 7, referring to Art. 13.</p>
<p>Recital 53</p>		
<p>Number ranges, including those used for value added services, are set in the national numbering plans and are not harmonised at Union level. Operators may therefore not be able to recognise the numbering ranges for value added services in all countries in advance. Numbering ranges used for value added services are subject to particular pricing conditions at the national level and in many cases their termination rates are not regulated. While this is understood to roaming providers, the level of the wholesale charges they will incur may still be unexpectedly high. In a roaming scenario, operators are unable to address this issue, because they lack information on number ranges used for value added services throughout the Union. To address this problem BEREC should establish and maintain a single Union-wide, secure database for value added services' numbering ranges. The database is intended as a transparency tool that will enable National Regulatory Authorities (NRAs) and operators to have direct access to information about which numbering ranges can generate higher costs (termination rates) in all Member States. It</p>	<p>Number ranges, including those used for value added services, are set in the national numbering plans and are not harmonised at Union level. Operators may therefore not be able to recognise the numbering ranges for value added services in all countries in advance. Numbering ranges used for value added services are subject to particular pricing conditions at the national level and in many cases their termination rates are not regulated. While this is understood to roaming providers, the level of the wholesale charges they will incur may still be unexpectedly high. In a roaming scenario, operators are unable to address this issue, because they lack information on number ranges used for value added services throughout the Union. To address this problem BEREC should establish and maintain a single Union-wide, secure database for value added services' numbering ranges. The database is intended as a transparency tool that will enable National Regulatory Authorities (NRAs) and operators to have direct access to information about which numbering ranges can generate higher costs (termination rates) in all Member States. It represents a necessary intermediate step to increase transparency at retail level as it could be used to inform roaming customers about the types of services that may be subject to increased charges when</p>	<p>The aim of this amendment is to ensure consistency with the changes proposed to Art. 17. See our comments referring to Art. 17.</p>

<p>represents a necessary intermediate step to increase transparency at retail level as it could be used to inform roaming customers about the types of services that may be subject to increased charges when roaming. BEREC should establish the procedures by which the competent authorities are to provide and update the information requested under Article 17.a</p>	<p>roaming. <b><i>This database should contain information on the wholesale rates connected with those numbers.</i></b> BEREC should establish the procedures by which the competent authorities are to provide and update the information requested under Article 17.</p>	
<p>Amendment 1</p>		
<p>Article 3.1 <i>Wholesale roaming access</i> Mobile network operators shall meet all reasonable requests for wholesale roaming access, in particular allowing the roaming provider to replicate the retail mobile services offered domestically, when technically feasible.</p>	<p>Mobile network operators shall meet all reasonable requests for wholesale roaming access, <del>in particular allowing the roaming provider to replicate the retail mobile services offered domestically, when technically feasible.</del></p>	<p>The proposed addition and especially the term “replicate” ignore the fact that a visited network may have different coverage, capacity and other network parameters than the home network. Therefore, the proposed new text would likely lead to disputes about “technical feasibility” and when domestic services are “replicated”. This will become especially important upon the launch of 5G enabling network slicing, where management of networks parameters according to the needs of individual applications is the fundamental feature. The proposed extension of the access obligation would discourage investment in new network technologies and generations. It is disproportionate to oblige operators who compete on the national level for having the best and latest networks to share these advantages by being forced to give wholesale access to latest standards available immediately at regulated rates. This far reaching proposal is not justified as there is no market failure. There are no known access refusals as any request can be served under current rules according to appropriate commercial negotiations. The proposed amendment for the wording of Article 5.2 (see below) is fully sufficient to alleviate any potential problems with quality of service and there is no need to introduce measures on the wholesale level.</p>
<p>Amendment 2</p>		
<p>Article 3.3 <i>Wholesale roaming access</i> Wholesale roaming access shall cover access to all network elements and associated facilities, relevant services, software and information systems, necessary for the provision of regulated</p>	<p>Wholesale roaming access shall cover access to all network elements and associated facilities, relevant services, software and information systems, necessary for the provision of regulated roaming services to customers, <del>on any network</del></p>	<p>The proposed new text would likely lead to disputes about what “any network technology and generation available” is. As mentioned above this will be especially acute upon the launch of 5G enabling network slicing, where management of networks parameters according to the</p>

<p>roaming services to customers, on any network technology and generation available.</p>	<p><del>technology and generation available</del>. <b>Anomalous or abusive use shall not be covered by wholesale roaming access.</b></p>	<p>needs of individual applications is the fundamental feature. The proposed extension of the access obligation would discourages investment in new network technologies and generations. It is disproportionate to oblige operators who compete on the national level for having the best and latest networks to share these advantages by being forced to give wholesale access to latest standards available immediately at regulated rates. This far-reaching proposal is not justified as there is no market failure. There are no known access refusals as any request can be served under current rules according to appropriate commercial negotiations. The added clause for abusive traffic is necessary to clarify, that abusive use is not covered by the regulated roaming access. It is supplemented by a closer definition of abusive usage in Recital 20 (see above). The proposed amendment for the wording of Article 5.2 (see below) is fully sufficient to alleviate any potential problems with quality of service and there is no need to introduce measures on the wholesale level.</p>
<p>Amendment 3</p>		
<p>Art. 5 <i>Provision of regulated retail roaming services</i> Roaming providers shall not levy any surcharge in addition to the domestic retail price on roaming customers in any Member State for any regulated roaming calls made or received, for any regulated roaming SMS messages sent and for any regulated data roaming services used nor any general charge to enable the terminal equipment or service to be used abroad, subject to Articles 6 and 7.</p>	<p>Roaming providers shall not levy any surcharge in addition to the domestic retail price on roaming customers in any Member State for any regulated roaming calls made or received, for any regulated roaming SMS messages sent and for any regulated data roaming services used, <b>including MMS messages</b>, nor any general charge to enable the terminal equipment or service to be used abroad, subject to Articles 6 and 7.</p>	<p>The objective of the proposed change to Art. 5 is to reintroduce deleted reference to MMS messages. Amendments to the Regulation proposed in the Commission text change the provisions relating to MMS inconsistently. In some instances the reference to MMS is removed (so that MMS is treated as a data transmission service), but in others the provisions envisage the possibility to charge for MMS on a per-unit basis. This may lead to legal uncertainty. The possibility of charging for MMS on a per-unit basis should be allowed for operators because this is also, inter alia, the national way of billing for MMS. Modification in this regard would be burdensome as it would require changes in IT systems and therefore lead to significant costs for roaming providers.</p>
<p>Amendment 4</p>		
<p>Article 5.2 <i>Provision of regulated retail roaming services</i></p>	<p>Roaming providers shall <del>ensure, when technically feasible,</del> <b>that regulated retail roaming services are provided under</b></p>	<p>Due to the objective technical nature of how international roaming works (customer using one or, consecutively,</p>

<p>Roaming providers shall ensure, when technically feasible, that regulated retail roaming services are provided under the same conditions as if such services were consumed domestically, in particular in terms of quality of service.</p>	<p><del><i>the same conditions as if such services were consumed domestically, in particular in terms of quality of service. not limit quality of service or the conditions of regulated retail roaming services where such limitations have not been implemented in the same way domestically.</i></del></p>	<p>several networks in a visited country and home operator that doesn't have control over visited network) it is impossible to ensure that customers get "same conditions" as under domestic consumption. The condition "when technically feasible" is unclear and will in practice generate disputes.</p>
<p>Amendment 5</p>		
<p>Article 9.1 lit. (b) <i>Exceptional application of retail surcharges for the consumption of regulated retail roaming services and provision of alternative tariffs</i> b) any surcharge applied for regulated roaming calls received shall not exceed the single maximum Union-wide mobile voice termination rates set for that year in accordance with Article 75(1) of Directive (EU) 2018/1972. Where the Commission decides, following its review of the delegated act adopted pursuant to Article 75(1) of Directive (EU) 2018/1972, that setting a Union-wide voice termination rate is no longer necessary and not to impose a maximum mobile voice termination rate, any surcharge applied for regulated roaming calls received shall not exceed the rate set by the most recent delegated act adopted pursuant to Article 75 of that Directive.</p>	<p>b) any surcharge applied for regulated roaming calls received shall not exceed the <b>highest</b> single maximum Union-wide mobile voice termination rates set for that year in accordance with Article 75(1) of Directive (EU) 2018/1972. Where the Commission decides, following its review of the delegated act adopted pursuant to Article 75(1) of Directive (EU) 2018/1972, that setting a Union-wide voice termination rate is no longer necessary and not to impose a maximum mobile voice termination rate, any surcharge applied for regulated roaming calls received shall not exceed the rate set by the most recent delegated act adopted pursuant to Article 75 of that Directive.</p>	<p>The delegated act sets different maximum Union-wide mobile voice terminations rates for Member States in the in the period until 1<sup>st</sup> January 2024. Therefore, the current wording may lead to significant uncertainties. In order to avoid any interpretational doubts it is recommended to introduce the proposed clarification.</p>
<p>Amendment 6</p>		
<p>Article 9.3 lit. (c) <i>Exceptional application of retail surcharges for the consumption of regulated retail roaming services and provision of alternative tariffs</i> c) the quality of service that can reasonably be expected when roaming in the Union</p>	<p><del><i>e) the quality of service that can reasonably be expected when roaming in the Union.</i></del></p>	<p>This new lit.(c) should be deleted, as it raises many uncertainties. Any additional explanation about the quality of service in case of roaming due to the characteristic of roaming would not give the customer more information. In general, the proposal is not clear about the meaning of "quality of service".</p>
<p>Amendment 7</p>		
<p>Article 13 <i>Wholesale charges for emergency communications</i> Without prejudice to Articles 10, 11 and 12, the visited network operator shall not levy on the roaming provider any charge related to the emergency communications initiated by the</p>	<p>Without prejudice to Articles 10, 11 and 12, the visited network operator shall not levy on the roaming provider any charge related to the <b>types of emergency communications agreed between the roaming provider and the visited network operator and</b> initiated by the roaming customer and the transmission of caller location information.</p>	<p>This change limits the "no charge" principle to those types of emergency communication which are clearly identifiable based on the inter-operator agreements. For example, it is technically impossible for a visited operator to identify that certain data traffic is carrying emergency communication.</p>

roaming customer and the transmission of caller location information.		
<b>Amendment 8</b>		
<p>Article 14.1 <i>Transparency of retail conditions for roaming calls and SMS messages</i>          (...) Roaming providers shall, except when the roaming customer has notified the roaming provider that he does not require this service, provide the customer, automatically by means of a Message Service, without undue delay and free of charge, when the roaming customer enters a Member State other than that of his domestic provider, with information on the potential risk of increased charges due to the use of value added services including a link to a dedicated webpage providing information about the types of services that may be subject to increased costs and, if available, information on value added services number ranges.</p>	<p>Roaming providers shall, except when the roaming customer has notified the roaming provider that he does not require this service, provide the customer, automatically by means of a Message Service, without undue delay and free of charge, when the roaming customer enters a Member State other than that of his domestic provider, with information on the potential risk of increased charges due to the use of value added services including a link to a dedicated webpage <b>hosted by BEREC</b> providing information about the types of services that may be subject to increased costs and, if available, information on value added services number ranges.</p>	<p>By this change we want to ensure that information on access to value added services is collected and presented in a harmonized way leaving no space for confusion on the side of the customer. BEREC as the regulator's body is best positioned to collect and consolidate such information, while if each of the EU operators would have to do it this would create a disproportionate risk of information being incomplete and not up-to-date, creating also excessive workload on operators. All customers should get the same harmonized and clear information about the number ranges that have a potential risk of increased charges due to the use of value-added services. Therefore, all providers should include a reference link to the same webpage which is hosted by BEREC and includes the relevant information for all Member States. Whereas BEREC already proposes to implement central information point for emergency calls, it is incomprehensible why this should not be possible for the value-added service.</p>
<b>Amendment 9</b>		
<p>Article 16 <i>Transparency on the means of access to emergency services</i>          Roaming providers shall ensure that their roaming customers are kept adequately informed on the means of access to emergency services in the visited Member State.          An automatic message from the roaming provider shall inform the roaming customer that the latter may access emergency services free of charge by calling the single European emergency number '112' and by alternative means of access to emergency services through emergency communications mandated in the visited Member State. The information shall be delivered to the roaming customer's mobile device by an SMS message, every time the roaming customer enters</p>	<p>Roaming providers shall ensure that their roaming customers are kept adequately informed on the means of access to emergency services in the visited Member State.          An automatic message from the roaming provider shall inform the roaming customer that the latter may access emergency services free of charge by calling the single European emergency number '112' and by alternative means of access to emergency services through emergency communications mandated in the visited Member State. The information shall be delivered to the roaming customer's mobile device by an SMS message, every time the roaming customer enters a Member State other than that of his domestic provider. <b>The SMS shall contain a link to a dedicated webpage hosted by BEREC where regularly updated info would be provided.</b> It shall be provided free of charge at the moment the roaming customer initiates a</p>	<p>Access to emergency services should be collected and presented in a harmonized way leaving no space for confusion on the side of the customer. BEREC as the regulator's body is best positioned to collect and consolidate such information, while if each of the EU operators would have to do it this would create a disproportionate risk of information being incomplete and not up-to-date, creating also excessive workload on operators. This approach finds support also in the BEREC standpoint to the legislative proposal, where BEREC suggests "a central information point (e.g. official website)" that provides the relevant information on all emergency communications in each MS and to which roaming providers can provide a link.</p>

<p>a Member State other than that of his domestic provider. It shall be provided free of charge at the moment the roaming customer initiates a roaming service, by an appropriate means adapted to facilitate its receipt and easy comprehension.</p>	<p>roaming service, by an appropriate means adapted to facilitate its receipt and easy comprehension.</p>	
<p>Amendment 10</p>		
<p>Art. 17 <i>Database for numbers of value added service</i> BEREC shall establish and maintain a single Union-wide database of value added services numbering ranges in each Member State to be made accessible for national regulatory authorities and operators. The database shall be established by 31 December 2023. To that end, the NRA or other competent authorities shall, by electronic means, provide the necessary information and the relevant updates to BEREC without undue delay.</p>	<p>BEREC shall establish and maintain a single Union-wide database of value added services numbering ranges <b>and wholesale prices associated with them</b> in each Member State <b>and of means of access to emergency services that are mandated in each Member State</b> to be made accessible for national regulatory authorities and operators. <b>Information on value added services and access to emergency services should be made available on dedicated webpage.</b> The databases shall be established by 31 December 2023. To that end, the NRA or other competent authorities shall, by electronic means, provide the necessary information and the relevant updates to BEREC without undue delay.</p>	<p>Together with the list of premium-rate numbers, prices for calls to these numbers should be published - so that operators can be aware of the costs they will incur when connecting to such numbers.</p>
<p>Amendment 11</p>		
<p>Article 18. Supervision and enforcement</p>	<p>Add new point 8.</p> <p>8. Modification of customer contracts which result from change to conditions of Union-wide roaming, such as:</p> <ul style="list-style-type: none"> <li>- changes to fair use policy due to adoption of new implementing regulation based on art. 8 or its amendment,</li> <li>- authorization for application of additional surcharges in accordance with art. 7,</li> <li>- leaving or joining of EU by any country,</li> <li>- international agreement signed between EU and any third party related covering roaming</li> </ul> <p>shall not entitle end users to terminate contract without returning of granted benefits.</p>	<p>Operators should be allowed to modify contract conditions which result from circumstances that are beyond their control. For example, operators should be able to change pricing for roaming in a country which leaves EU as such country is no longer allowed to meet the regulation (incl price caps). Therefore roaming providers must have the right to change conditions of providing roaming in that country which is adjusted to new commercial conditions (which may lead to provision of roaming below costs). The same applies to situation when modifications of changes to fair use policy take place, when a given provider is authorized to apply sustainability surcharges or if based on intrernational agreement operators would be obliged to introduce changes in roaming.</p>
<p>Amendment 12</p>		
<p>Art. 26 <i>Entry into force and expiry</i> This Regulation shall enter into force on 1 July 2022.</p>	<p>This Regulation shall enter into force on 1 July 2022. It shall expire on 30 June 2032.</p>	<p>The date of the entry into force of the obligations to provide information to customers on volumes and prices for roaming calls to VAS numbers and the date of the</p>



It shall expire on 30 June 2032.	<b><i>Obligations provided for in Articles 14 and 16 related to the information in the databases provided by BEREC under art. 17, shall apply from two months after the date of establishment of the database for numbers of value added services, but not later than from 1 March 2024.</i></b>	establishment of the database maintained by BEREC should be made consistent. Additional 2 months are necessary for roaming providers to implement those changes in their systems. This necessity has been also noticed by the Council and reflected in the version of the draft roaming regulation adopted by the Council of the UE (mandate for trialogues).

Additional comment:

- 1) Given that the draft regulation provides for the establishment of a list of value added services numbers maintained by BEREC - it is reasonable to indicate in the regulation (to eliminate abusive use of wholesale roaming access) that all traffic termination relating to numbers not included in the list of value added services numbers is subject to MTR/FTR regulation in accordance with the European Commission delegated act published this year.
- 2) We would like to draw the attention to the fact, that the costs of terminating international MMS and SMS send by customers being in roaming are not covered by the incomes received from those customers (wholesale termination rates for such traffic are much higher than the domestic retail prices for that services). Roaming regulation should therefore allow operators to recover such costs from customers.
- 3) Changes of prices for ILD and roaming services should be implemented at the same time, since 1 June yeach year. We request introduction of one date per year in which all changes to prices will take place regardless of the source of the change and for an determination that the change in rates to a higher (resulting from rate change) does not give customers the right to terminate the contract without the need to return the granted relief. In addition, we postulate that this single date for the price change in roaming should not be a turn of the year, i.e. the period on January 1 of each year. Probably not only in Poland, but also in the entire EU, this is the period holiday season, during which there is a time of technical work in mobile networks, various "freezes," network freezes, and any projects that change rates across the entire customer base are big challenge in the organization of these activities for entrepreneurs.  
Additionally, determination that the change in rates as a result of updating the rate does not give the right to termination of contracts can be introduced as another example to the preamble to point 34.
- 4) Necessity to modify Sustainability mechanism.

There is no basis for the current criterion for assessing if domestic pricing model is balanced, that the roaming loss must exceed a 3% EBITDA margin to be able to apply for a surcharge. Operators should have the right to compensate any RLAH related losses. Additionally, in order to allow Operators to cover losses from RLAH, implementation of surcharge must be treated as a change of pricelist which is a result of changes to law. Only in such way operators will be able to recover its losses.

5) The conditions of the fair usage policy provided by the Commission's Implementing Regulation 2016/2286 are difficult to apply, sometimes inefficient or extremely complicated as detailed bellow:

- prevailing consumption and presence – beside the fact that implementation of this mechanism is very complicated, the 4-months-observation period is extremely long from the perspective of occasional travels that are in the scope of the Roaming Regulation; usual citizens do not travel abroad more than one month and therefore a 2 month observation period would be much more appropriate
- Open data limit is 2X the domestic retail price/wholesale price for the entire bundle, which means twice the volume of data that can be purchased by an operator at wholesale level from the whole retail price charged from the customers for all services included in the bundle. It means that operators' cost to provide data roaming services would be twice the price charged to end-users. Therefore, we believe that a reduction of this limit to domestic retail price/wholesale price would be much closer to the costs and could make RLAH Regulation more effective.