

INCEPTION IMPACT ASSESSMENT

Inception Impact Assessments aim to inform citizens and stakeholders about the Commission's plans in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options.

TITLE OF THE INITIATIVE	Initiative for reviewing and prolonging the Roaming Regulation
LEAD DG (RESPONSIBLE UNIT)	DG CNECT B Electronic Communications Networks and Services, Unit B2 Implementation of the Regulatory Framework
LIKELY TYPE OF INITIATIVE	Proposal for a Regulation of the European Parliament and of the Council
INDICATIVE PLANNING	Q4 2020
ADDITIONAL INFORMATION	https://ec.europa.eu/digital-single-market/en/roaming

The Inception Impact Assessment is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Inception Impact Assessment, including its timing, are subject to change.

A. Context, Problem definition and Subsidiarity Check

Context

Regulation (EU) 2015/2120¹ (so-called Telecoms Single Market Regulation) mandated the end of retail roaming charges in the Union from 15 June 2017, subject to fair use policy and a sustainability derogation by amending Regulation (EU) 531/2012 (Roaming Regulation). These roaming rules are widely known as "Roam-Like-At-Home" (RLAH). The roaming policy has been one of the flagships of European policy allowing millions of consumers and businesses to experience the benefits of the Digital Single Market in their daily life.

The Roaming Regulation expires on 30 June 2022. Article 19 in the Roaming Regulation requires the Commission to assess the effects of the abolition of retail roaming charges also based on BEREC reports and opinions and if appropriate, accompany it with a legislative proposal. The review has been prepared in line with these requirements.

This initiative is included in the 2020 Commission Work Programme under the headline ambition "A Europe fit for the Digital Age" addressing the specific objective "Digital for consumers". It is a follow up to the Commission's review report² adopted on 29 November 2019.

What is roaming?

Roaming, as defined by the Roaming Regulation, is a service that allows a customer (consumer or business) of a public Mobile (Virtual) Network Operator (M(V)NO) in one EU/EEA country (country A) to have access to mobile services (voice, SMS or data) from a Mobile Network Operator (MNO) when travelling in another EU/EEA country (country B). The Operator A ensures that its customers remain connected to a mobile network of the Operator B when travelling abroad while using the same mobile handset (or possibly laptop or tablet in case of data roaming) and the same phone number. Operator A, that wants to offer roaming services to its customers ("retail roaming services") in country B, has to buy these services from a Mobile Network Operator (MNO) (Operator B) located in the visited country B through commercial wholesale roaming agreements ("wholesale roaming services"). In practice, when a customer of Operator A places a call or uses mobile data while roaming abroad in country B, that service is provided by an Operator B in the visited country B. The roaming customer's home Operator A has to pay the visited Operator B for that service. ("wholesale roaming charges"). The level of wholesale roaming

¹ Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) 531/2012 on roaming on public mobile communications networks within the Union.

² Report on the review of the roaming market, COM(2019)616 final, available [here](#).

charges is capped by the Roaming Regulation (for data the price caps is decreasing each year, since there is a glide path).

What is “Roam-Like-At-Home”?

Since 15 June 2017, customers can have access to mobile services (voice, SMS or data) at no extra cost when they travel periodically in the EU/EEA. In these cases mobile operators have, as a main rule, not been allowed to levy any charges in addition to the domestic price for the provision of (retail) roaming services. In order to prevent abusive or anomalous use of roaming services - such as permanent roaming - at domestic prices that may have detrimental effects on the domestic markets, mobile operators may apply a fair use policy.

How is " Roam-Like-At-Home " regulated in order to be sustainable over time?

For Roam-Like-At-Home to be provided in a sustainable manner throughout the Union, the co-legislators have agreed:

- **At retail level**, where operators have the obligation to provide roaming services at the same conditions as domestically for periodic travelling, they were given the possibility to apply:
 - (a) a fair use policy to prevent abusive or anomalous use of roaming services at domestic prices (such as permanent roaming); and (b) exceptional and temporary derogations to forestall any risk of domestic price increases.
- **At wholesale level**, where operators have a wholesale access obligation to ensure provision of roaming services, in order to make wholesale costs sustainable in a “Roam-Like-At-Home” regime, there has been a substantial reduction of wholesale roaming price caps applicable to wholesale agreements between operators, while ensuring that operators providing the wholesale service can recover their costs.

The agreed measures were further detailed:

- At retail level, the Commission Implementing Regulation (EU) 2016/2286³ (CIR) laid down detailed rules on a) the application of fair use policy and b) 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.
- At wholesale level, Regulation (EU) 2017/920 substantially reduced the price caps with a 36% price reduction on voice (3.2 €/min), a 50% price reduction for SMS (1 €/SMS) and an initial 85% price reduction for data (from 50 €/GB to 7.7 €/GB), followed by a glide path with a last step of data price cap at 2.5 €/GB in 2022.⁴ These wholesale roaming price caps ensured that wholesale costs could be fully recovered by the operator providing the wholesale roaming service. In the case of data, the price caps were programmed to decline every year until 2022, in order to ensure that market players can benefit from wholesale rates that allow for the provision of roaming services to their customers without levying any charge on top of the domestic price.

How has the functioning of the roaming market been assessed since 15 June 2017?

In line with its reporting obligations the Commission adopted on 12 December 2018 an interim report on the implementation of the Roam-Like-At-Home rules over the first 18 months⁵; published on 28 June 2019 a Staff Working Document (SWD) on the findings of the review of the rules on fair use policy and the sustainability derogation laid down in the Implementing Regulation (EU) 2016/2286⁶ and submitted on 29 November 2019, a review report to the European Parliament and the Council, accompanied by a staff working document which assesses the functioning of the roaming market under the Roam-Like-At-Home rules⁷.

The November 2019 review report has gathered and presented evidence to evaluate how this intervention has performed. It highlights how Roam-Like-At-Home has greatly benefitted consumers and businesses when they travel periodically. It confirms the success of the reform, the continued good functioning of the roaming market under the new rules, the overall compliance of mobile operators with those rules, the absence of infringement proceedings and the limited number of complaints as well as a coordinated implementation approach achieved via

⁵ Report on the implementation of Regulation (EU) 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union, as amended by Regulation (EU) 2015/2120 and Regulation (EU) 2017/920, COM(2018) 822 final, available [here](#).

⁶ Commission Staff Working Document on the findings of the review of the rules on roaming fair use policy and the sustainability derogation laid down in the Commission Implementing Regulation (EU) 2016/2286 of 15 December 2016, SWD(2019) 288 final, available [here](#).

⁷ Report on the review of the roaming market, COM(2019)616 final, available [here](#).

the BEREC Guidelines designed by EU Telecom Regulators to explain the Roaming Regulation and the Commission Implementing Regulation (CIR)

- At the retail level, the report shows the rapid and massive increase in roaming consumption (e.g. in summer 2018 the use of roaming data in the EU/EEA was 12 times higher than in the last summer before RLAH), a high level of consumer satisfaction, a largely unchanged overall domestic tariff structure, MVNOs maintaining their position on the market and continuous decline in average roaming prices in the rest of the world indicating, that there are no waterbed effects linked to the introduction of Roam-Like-At-Home in EU/EEA countries.
- At wholesale level, the regulation has triggered considerable reductions in wholesale prices that have benefited net outbinder operators⁸ and increased roaming demand that benefited net inbounder operators⁹ and recovery of costs for the provision of wholesale roaming.

Problem the initiative aims to tackle

The European roaming policy has been a success and its achievements are essential for Europe's digital future. However, in the absence of regulation, Roam-Like-At-Home cannot be sustained for millions of consumers and businesses that now experience the benefits of this part of the Single Market in their day-to-day life. New barriers to the Digital Single Market could reappear if the regulation is not prolonged.

The review report of November 2019 concludes that, despite signs of some competition dynamics on both the retail and wholesale level, the underlying basic competition conditions have not changed, and are not likely to change in the foreseeable future to such an extent that retail or wholesale regulation of the roaming market could be lifted after the expiry of the Regulation in June 2022.

This initiative aims to address the following issues from two perspectives – the customer perspective and the mobile operator perspective:

From a customer's perspective:

1. Substantial Risk of Losing the Benefits of Roam-Like-At-Home

Mobile telecommunication customers, both consumers and businesses, risk losing the benefits of Roam-Like-At-Home once the regulatory obligation for operators at retail level will expire in June 2022. The competitive landscape is not sufficient to guarantee the continuation of Roam-Like-At-Home in the absence of either retail or wholesale regulation. The roaming review report concludes that *"... none of the current and foreseeable technological and business developments can be anticipated to modify, in the next few years, the competition conditions at wholesale and retail levels to such an extent that RLAH would continue to be provided by operators in the absence of the roaming rules"*.

Therefore, should the Roaming Regulation be left to expire, there would be a substantial risk that European consumers and SMEs will lose the benefits brought to them by Roam-Like-At-Home. In its supplementary analysis¹⁰, the Body of European Regulators in Electronic Communications (BEREC) also recommends that, until a new assessment of the roaming market can be made, the roaming rules should remain. Because competition at wholesale level is insufficient, operators cannot sustain Roam-Like-At-Home without regulated wholesale caps.

2. Lack of Transparency on Quality of Service (QoS) and Roam-Like-At-Home quality

Consumers may not always have sufficient understanding about the level of QoS they should expect, because of insufficient transparency concerning the provided QoS while roaming.

The Staff Working Document, accompanying the roaming review report, observes that QoS is an integral part of the roaming service. While the Roaming Regulation does not include any explicit obligation on QoS as such, it mandates that the user has access to the same service abroad in the EU/EEA for the same price, as

⁸ An outbinder operator has a customer base which consumes more mobile services abroad (i.e. on the networks of partner operators in other EU/EEA countries), than those consumed by the partner operators' customer base on its own network

⁹ An inbounder operator has a customer base which consumes less mobile services abroad than those consumed by the partner operators' customer base on its own network.

¹⁰ BEREC supplementary analysis on wholesale roaming costs, BoR(19)168

long as such service can be delivered on the visited network. The QoS, in particular data speed while roaming, does not depend entirely on the home operator, but largely depends on the QoS provided by the visited network. In its Opinion on the roaming market, BEREC also considers that domestic operators should not deliberately lower the QoS compared to the QoS offered in the home country, so that the end-users could genuinely 'roam like at home'. The Opinion also notes a certain lack of transparency regarding the data speed provided by some operators to their customers while roaming abroad.

3. Seamless Access to Emergency Services

The seamless access to emergency services through emergency communications by using the single European emergency number "112" while roaming is not ensured consistently in the EU. This also applies to the provision of caller location information for roaming customers. Neither is the equivalent access to emergency services by end-users with disabilities guaranteed when roaming in the visited Member State. The European legislation on emergency communications seeks to give access to emergency services through a single, cost-free number. It is thus indispensable to ensure that roaming customers enjoy the same level of service, when it comes to emergency communications as when at home. End-users with disabilities, should benefit from equivalent access to emergency services including free of charge emergency communication and caller localisation. They should also be informed about the availability of alternative means of access in the visited Member State (via SMS, apps, web based solutions, etc.) similar to other end-users who may call 112 free of charge (Article 14 of the Roaming Regulation).

4. Lack of Transparency Regarding Higher Prices for Value-added Services

There is insufficient transparency on the higher charges applied to calls to numbers of value-added services, numbers and the resulting bill-shocks due to calls to such value-added services while roaming. This might erode customers' confidence in roaming and may reinforce phone restriction abroad. In 2018, 12% of consumers decided to switch off their mobile phone and 27% switched off their data roaming while abroad. Operators cannot address these issues effectively, because they cannot recognize in advance numbering ranges for such value-added services in all countries, hence the unexpected additional costs incurred upon reception of wholesale roaming bills. Often, operators are the victims themselves, as such calls or SMSs incur high termination costs that cannot be recovered.

5. Enable Consumers to fully benefit from Machine to Machine Communication (M2M)

The provision of roaming services is increasingly important for the M2M communication market, and consumers and businesses increasingly benefit from the exponential increase in the number of Internet of Things devices, which often involve permanent roaming. It will be assessed if current roaming rules are sufficient to ensure that all roaming customers fully benefit from those developments.

From a mobile operator's and business perspective:

6. Regulated Wholesale Price Caps Necessary to Sustain Roam-Like-At-Home Provisions

Without regulated wholesale price caps at an adequate level, some operators would not be able to sustain the Roam-Like-At-Home offers once the regulatory obligation for operators at wholesale level expires in June 2022. The level of the wholesale roaming price caps is an essential component of the Roaming Regulation. The caps should therefore be set at a level that enables operators in the Union to provide Roam-Like-At-Home while at the same time ensuring cost recovery at wholesale level throughout the Union.

7. Facilitate Machine to Machine Communication (M2M)

The provision of roaming services is increasingly important for the M2M communication market, where we register an exponential increase in the number of Internet of Things devices, which often involves permanent roaming. It appears necessary to assess if the current commercial roaming arrangements are sufficient to ensure thriving development of these services. The roaming review report notes that the Roaming Regulation does not exclude M2M communications from its scope and that wholesale roaming access obligations also apply in case such access is sought for the purposes of M2M communications. It further acknowledges that the relevance of volume-based maximum wholesale charges for low-volume, narrow-band M2M communications requires further attention.

8. Difficulties in Effectively Combating Fraud

The interim report and the BEREC Opinion provide a description of the cases of fraudulent use of roaming services reported by some MNOs and MVNOs in the joint Commission/BEREC survey. These cases of fraudulent use include international revenue share fraud, abusive use of SIM cards and resale of SIM cards in other countries for permanent roaming and do not relate to usage by individual users beyond fair use policy.

The lack of transparency on the higher charges applied to calls to value-added services' numbers has also been reported by some operators as an issue, particularly since operators cannot always recognize numbering ranges for value-added services from other countries.

Operators have generally taken measures to address the above-mentioned problems. Nevertheless, the review of the Roaming Regulation should assess whether adequate measures should be set in the Regulation.

9. Insufficient Use of Separate Sale of Data Roaming

Since 2012, the Roaming Regulation has provided that end-users may not be prevented by operators from accessing regulated data roaming services on a visited network offered by an alternative roaming provider¹¹. However, this structural measure, introduced by way of the obligation for the separate sale of data roaming services has become ineffective following the introduction of Roam-Like-At-Home and the provision could therefore be removed.

Basis for EU intervention (legal basis and subsidiarity check)

The legal basis for this initiative is Article 114 of the Treaty on the Functioning of the European Union (TFEU), which deals with the approximation of laws of the Member States in order to achieve the objectives of Article 26 TFEU, namely, the proper functioning of the internal market.

The tangible benefits that consumers and enterprises currently enjoy as a result of the Roam-Like-At-Home regime (as demonstrated in the roaming review report and the interim review) should continue. A legislative initiative is justified in this area given that the Roaming review report concludes that the competitive landscape remains largely unchanged and it cannot suffice to ensure continuation of the Roam-Like-At-Home principle in the absence of regulation. This initiative fully respects the subsidiarity principle, as the cross-border character of intra-Union roaming implies that actions at Member State level cannot address the issue in an effective manner. In the past, national regulatory authorities (NRAs) acknowledged that they were unable to autonomously tackle this problem due to the cross-border nature of the international roaming market¹².

The cross-border character of international roaming thus not only justifies the intervention of the Commission at the EU level, but also makes it likely that a regulation is the only legislative instrument that would be suitable to effectively tackle this issue simultaneously on the whole European territory, imposing equal obligations to all operators.

B. Objectives and Policy options

Objectives

The primary objective of this initiative is to ensure the continuation of the Roam-Like-At-Home framework in order to maintain benefits it has brought to European consumers and businesses, especially SMEs. This means that it needs to continue to i) enable a sustainable prohibition of retail roaming surcharges for all, or virtually all, operators in the EU, while avoiding distortions on the home markets and ii) ensure cost recovery at wholesale level, whilst preserving incentives to invest in visited networks and to avoid distortion of domestic competition in visited markets.

The secondary objective is to assess the need for possible amendments to the current rules, which would make them better fit for purpose. This could also include providing, where needed, further clarity to the existing rules and responding to new technological and business developments.

The Roaming Regulation does not face substantial implementation problems as confirmed by overall compliance of mobile operators with the rules, the absence of infringement proceedings, the effective enforcement actions at national level and the small number of complaints (see also roaming review report for further detail). As a result, the need for improvements in the current Roaming Regulation is limited. Nevertheless, both the review report and the BEREC reports (including the BEREC Opinion on the functioning of the roaming market) have revealed certain areas that could benefit from clarifications or refinements of the Roaming Regulation provisions, as well as identified certain forward looking issues that could be tackled.

¹¹ Article 4 in 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

¹² See December 2005 ERG letter to the Directorate general of the Commission's DG Information Society.

The Commission does not intend at this stage to amend the rules laid down in the Implementing Regulation (EU) 2016/2286 (fair use policy and sustainability derogation) since the review report demonstrates the adequate functioning of the safeguard rules at retail level (fair use policy and sustainability derogation).

As regards the choice of the legislative instrument, it has to be noted that EU regulatory intervention on wholesale and retail roaming markets pursuant to Article 114 TFEU (former Article 95 TEC) has been necessary for over a decade, in order to improve the conditions for the functioning of the internal market for roaming services within the Union. The Roaming Regulation provides immediate applicability and ensures stronger harmonisation on this cross-border aspect of the functioning of the mobile telecom markets. The regulatory intervention in the form of a regulation is therefore necessary and seems most appropriate to ensure the establishment and the functioning of a single telecom market across the Union. This objective is unlikely to be achieved by less restrictive means than the legislative instrument at stake which ensures simultaneous application on the whole European territory, imposing equal obligations to all operators, impacting both cross-border negotiations at business level (wholesale roaming agreements between operators) and the cross border aspects of retail offers to consumers.

Policy Options

- **Baseline option:** Prolong the Roaming Regulation without amendments

Given that the review report of 29 November 2019 demonstrated the validity of the current approach and its benefits, the baseline option is to prolong the existing Roaming Regulation, maintaining its current provisions both at retail and at wholesale level largely unchanged. At wholesale level, this would include extending the last values of data, voice and SMS wholesale caps (2.5 €/GB, 0.032 €/minute for calls made and 0.01 €/SMS).

- **Alternative options:** Prolong the Roaming Regulation with amendments

Alternative options would retain most of the retail and wholesale provisions of the current Roaming Regulation, while the impact assessment would assess the possible introduction of certain clarifications and improvements and eventually discard some of the assessed options. The measures to be assessed could include the following issues:

- Retail level
 - Quality of Service (QoS): Transparency related to QoS.
 - Emergency Communications: Measures to ensure seamless access to emergency communications while roaming.
 - Value-added services: Measures related to value-added services.
- Wholesale level
 - Wholesale price caps: At wholesale level, the analysis will start from the existing external study performed on behalf of the Commission assessing the cost for operators of providing wholesale roaming services¹³. The impact assessment will analyse if further action is needed in order for the Roam-Like-At-Home regime to function better while maintaining domestic competitive dynamics.
 - Quality of Service (QoS): Measures at wholesale level to address QoS.
 - Value-added services: Measures to protect against misuse related to value-added services.
 - Emergency Communications: Measures to ensure seamless and effective access to emergency services.
 - Machine to Machine (M2M): Concerning M2M connectivity, the analysis will assess whether any measures to address permanent roaming should be taken, if the impact assessment shows evidence of a market failure in this area. In addition, an alternative tariff basis (compared to current price/GB approach) could be considered for M2M roaming.

C. Preliminary Assessment of Expected Impacts

Likely economic impacts

The proposed measures maintain substantial economic benefits for European consumers travelling periodically to other EU/EEA countries that would not be sustained in absence of regulation. They also contribute to the viability of European SMEs, by reducing bills linked to employees travelling in the EU.

¹³ Study SMART 2017/0091 'Assessment of the cost of providing mobile telecom services in the EU/EEA' by AXON, July 2019, available [here](#).

It will further contribute to the new usage of connected devices and applications on travels in the EU, which in turn could trigger new revenues for EU mobile operators linked to the increase in services and increased volumes, possibly exceeding in the medium term those linked to limited EU roaming mobile usage in the past. The increased usage of services while roaming in the EU can have further positive impacts on digital service providers (start-ups, online businesses, application providers, cloud services, etc.). The development of 5G is expected to form the backbone for a wide range of services essential for the functioning of the Single Market and the maintenance and operation of vital societal and economic functions – such as energy, transport, banking, and health, as well as industrial control systems. It is expected to bring opportunities to provide services to consumers while travelling in the EU, promoting cross-border use of connected devices, services and mobile apps, favouring innovation.

The Roaming Regulation prolonging EU-wide roaming services at domestic prices, will continue to leverage the economic size of the European Single Market to enable EU SMEs to launch new EU-wide services used by EU consumers and all sorts of new connected devices, for the benefit of EU citizens and enterprises. The larger economic size of the Single Market and the larger number of users, creates positive network effects and more opportunities for service providers and customers. The usefulness of a service increases more than proportionally to the number of users, bringing a greater economic value to a larger number of users than to a smaller number of users.

At the same time, the impact on European mobile operators remains limited (see also roaming review report) and does not seem to threaten their viability.

Possible additional measures concerning the Internet of Things (IoT) industry might further contribute to the development of this emerging market in the EU.

Likely social impacts

The proposed measures will further enable European citizens, travelling to other EU Member States and EEA countries, to fully benefit from the Digital Single Market. They will continue to communicate freely and without having to incur additional costs for intra-Union roaming, while having more transparent service conditions and increasing certainty that they can profit from digital services in the same way abroad as at home.

The measures concerning the use of 112 seek to ensure that European citizens travelling to other EU Member States and EEA countries will enjoy the same level of access to emergency services as in their home country, which in some cases could help save human lives.

Ensuring access to emergency services and accurate caller location of roaming customers would translate into alleviating direct risk in life threatening emergencies, improving individual or public health or safety, decreasing risks related to private or public property, or to the environment. It is estimated that each year 3 million emergency calls are placed by roaming customers.

Likely environmental impacts

No environmental impacts are expected at this stage.

Likely impacts on fundamental rights

This initiative respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, notably the protection of personal data, the freedom of expression and information, the freedom to conduct a business, non-discrimination and consumer protection. In addition, it could be seen as reinforcing the freedom of movement, since it ensures that people travelling between EU Member States are not burdened with extra costs for the use of their mobile phones.

Since the objective of this initiative, namely to ensure the continuation of the Roaming Regulation, which mandated the end of retail roaming charges in the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

Likely impacts on simplification and/or administrative burden

The implementation of Roam-Like-At-Home implies administrative costs that will be identified and quantified in the impact assessment.

For operators costs are linked to reporting requirements, fair use policy introduction and monitoring and transparency requirements. NRAs and BEREC also sustain costs to monitor and supervise compliance with the Roaming Regulation. It has to be noted however, that given that the Regulation is already in place, many of the costs to implement these monitoring and transparency systems have been already sustained, therefore in many cases only the additional cost of maintaining those systems needs to be considered. Overall, administrative costs

are deemed marginal, compared to the important benefits that Roam-Like-At-Home brings to citizens and SMEs alike.

Further simplification is planned with the potential removal from the Roaming Regulation of the obligation to offer separate sales of roaming data services (so called local data break-out obligations) and with possible changes facilitating implementation for the countries outside the Eurozone. The impact assessment will identify the burden reduction and simplification potential.

D. Evidence Base, Data collection and Better Regulation Instruments

Impact assessment

An impact assessment will be prepared to support the preparation of this initiative and to inform the Commission's decision.

Evidence base and data collection

The following information, data and studies already exist and will be used in the preparation of the impact assessment:

- Data submitted by the operators on roaming developments at retail and wholesale levels. These are based on a dedicated questionnaire, which is run by BEREC and the NRAs twice a year. It particularly includes data on volumes of roaming traffic (retail and wholesale), wholesale roaming revenues, wholesale roaming rates and information on wholesale roaming contracts.
- Annual online surveys of MNOs, MVNOs and NRAs, which are jointly run by the Commission and BEREC. So far two such online surveys have been run, in June 2018 and March 2019. A third online survey is envisaged for the first half of 2020. The survey gathers information on the implementation of fair use policy, of the sustainability derogation, as well as other elements to be assessed under this review such as quality of services or misuses/fraudulent usage of Roam-Like-At-Home.
- The analysis of the operators' data collected for the BEREC Benchmark exercise and the analysis of the data collected through the online surveys were conducted by DG CNECT and the Competence Centre on Microeconomic Evaluation (CC-ME) of the Joint Research Centre (JRC)¹⁴. DG CNECT has also relied on BEREC's analysis of this data carried out in parallel to the Commission's analysis.
- Apart from this analysis, the Commission also uses the BEREC International Roaming Benchmark Reports. These reports are based on the above-mentioned data collected by BEREC and provide country-level results. They are published twice a year (in March and October) every year and provide country level data.
- BEREC is mandated by the co-legislator in the Roaming Regulation to collect data from NRAs on transparency and comparability of roaming tariffs once a year. For this purpose, NRAs are running another data collection from mobile operators in August every year. Based on these data, BEREC publishes country-level results in the BEREC Report on Transparency and Comparability of International Roaming Tariffs in December every year.
- Following a Commission request, BEREC has provided a formal Opinion on the functioning of the roaming market (June 2019, available [here](#)) and a supplementary cost analysis (September 2019, available [here](#)).
- In order to estimate the costs of providing wholesale roaming services in the EU/EEA, the Commission ordered an external study to AXON Partners (SMART 2017/0091), available [here](#). The study was conducted between March 2018 and June 2019. The contractor has developed a cost model to estimate the costs of providing wholesale roaming services in the EU Member State and EEA countries¹⁵. The cost model was developed in close collaboration with the BEREC International Roaming Working Group and was submitted twice to public consultation. Further, a designated Steering Group composed of experts from six different NRAs followed the project closely from start to finish.
- The Flash Eurobarometer Survey 468, on the end of roaming charges one year later, published in June 2018, gives some indication on the impact on consumers of roaming rules, covering travelling within the EU, awareness of the end of roaming charges, perceived benefits, perceived costs of roaming among non-

¹⁴ The Joint Research Centre (JRC) is the European Commission's in-house science service employing scientists to carry out research in order to provide independent, evidence-based scientific advice and support to EU policy. For further information, please visit the JRC's website at: <https://ec.europa.eu/jrc/>.

¹⁵ Except Iceland, Liechtenstein and Luxembourg which have not provided the necessary data to build the model in these three countries

travellers and the use of mobile services in other EU countries. In 2018, a majority of respondents were aware of the end of roaming charges (61%) but this had decreased compared to 2017 (-9 points). The restrictive use of phones abroad has noticeably declined (-9 points), however still 12% of consumers were switching off their mobile phone and 27% were switching off their data while roaming.

- A “sweep”¹⁶ was made across 207 websites of telecom operators in the EU in 2017 by consumer protection authorities and was published in July 2018¹⁷. On roaming, it stated that for 34 telecom operators out of 207 (16,7%) the charging policy for roaming within the EU was not clearly explained to consumers. Here are some examples of the required information: no direct charges to roaming customers, specific conditions under which charges may apply, etc..
- The Commission ordered from WIK Consult an external study on technological and market developments that might have an impact on the roaming market (SMART 2018/0012), available [here](#). The purpose of the study was to assess the availability and quality of services, which are an alternative to regulated retail voice, SMS and data roaming services, in particular in the light of technological developments. The study was conducted between December 2018 and June 2019. The contractor followed a modified greenfield approach to assess the competitive impact of various technological developments in the roaming market.
- The Commission publishes every year the “Mobile Broadband Prices in Europe” which reports on the level of domestic retail mobile prices in EU Member States and in a number of non-EU countries. For the purpose of cross-country comparisons, the study uses the standard mobile internet usage baskets defined by the Organisation for Economic Co-operation and Development (OECD).
- In November 2018, the European Parliament published a study entitled “Roaming: One year after implementation”, which was prepared at the request of the European Parliament’s Committee on Industry, Research and Energy (available [here](#)). The study reviews the retail and wholesale roaming markets during the first year after the introduction of the Roam-Like-At-Home regime. It acknowledges its benefits to the retail roaming market and makes certain recommendations focusing mainly on the wholesale regulation, including adjusting the wholesale caps.

The latest reports related to the Roaming Regulation based on above data are:

- The interim report to the European Parliament and the Council on the implementation of the Roam-Like-At-Home rules over the first 18 months Adopted on 12 December 2018¹⁸;
- The Staff Working Document (SWD) on the findings of the review of the rules on fair use policy and the sustainability derogation laid down in the Implementing Regulation (EU) 2016/2286 published on 28 June 2019¹⁹.
- Evaluation: The Report on the Review of the roaming market COM(2019) 616 final and its accompanying SWD(2019) 416 final adopted on 29 November 2019, has gathered and presented evidence to evaluate how this intervention has performed and confirmed the success of the Roaming Regulation and the overall good functioning of the roaming market under the analysed rules, both at retail and wholesale level. It has also assessed whether there were unintended/unexpected effects like for example increases in international roaming prices. The Review drew conclusions on whether the EU intervention continues to be justified and confirmed that the basic competition conditions have not changed and are not likely to change to such an extent that retail or wholesale regulation could be lifted. The report also suggested some elements, clarifications and updates that could be analysed in the impact assessment on a possible legislative proposal.

The information, data, studies and reports listed above represent a wide and solid evidence base for the envisaged initiative.

In addition, the JRC is conducting an analysis on the QoS and the results should be available in time to inform the impact assessment. The analysis is based on the measurement of data speed on domestic and roaming services using the same SIM cards in a number of Member States. Such measurements are made using the NetBravo application developed by the JRC.

Wherever additional information and data are collected periodically (e.g. BEREC benchmark data reports, joint

¹⁶ A sweep is a set of checks carried out on websites simultaneously to identify breaches of EU consumer law in a particular sector.

¹⁷ 2017 – Telecommunication and other digital services sweep, available [here](#)

¹⁸ Report on the implementation of Regulation (EU) 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union, as amended by Regulation (EU) 2015/2120 and Regulation (EU) 2017/920, COM(2018) 822 final, available [here](#).

¹⁹ Commission Staff Working Document on the findings of the review of the rules on roaming fair use policy and the sustainability derogation laid down in the Commission Implementing Regulation (EU) 2016/2286 of 15 December 2016, SWD(2019) 288 final, available [here](#).

Commission-BEREC survey, BEREC transparency report), such inputs as they are made available in the course of 2020, will be used by DG CNECT and the Competence Centre on Microeconomic Evaluation (CC-ME) of the Joint Research Centre (JRC) to support the impact assessment analysis.

Consultation of citizens and stakeholders

Main affected Stakeholders

Main stakeholders affected by the initiative: citizens and residents in the EU and EEA that are users of mobile communication services, mobile network operators (MNOs) and mobile virtual network operators (MVNOs), vertical industries, SMEs, start-ups, cloud services providers, application providers, other enterprises, NRAs, BEREC.

Consultations already undertaken:

The review report has been developed following consultation with BEREC, the national regulators and based on inputs from the market players.

BEREC provided its formal Opinion on the functioning of the roaming market, BoR(19)101, as well as a supplementary cost analysis, BoR(19)168. The Commission has also taken into account a number of BEREC reports, notably the semi-annual international roaming benchmark reports (adopted in March and October each year) and the annual reports on the transparency and comparability of roaming tariffs (adopted in June each year since 2017). The Commission also analysed independently the data, collected by BEREC, for the needs of the benchmark report. Market inputs were also taken into account, collected through an online survey, run jointly by the Commission and BEREC. The survey was held twice, in June 2018 and March 2019. It gathered information on the implementation of fair use policy, of the sustainability derogation, as well as other elements assessed in the review, such as quality of services or misuses/fraudulent usage of Roam-Like-At-Home.

The Flash Eurobarometer Survey 468, on the end of roaming charges one year later, published in June 2018, gave some indication on the Roaming Regulation impacts and the consumers views.

Finally, the Commission made use of external studies, on the technological developments and their impact on the roaming market on the wholesale roaming costs and on mobile broadband prices. In the framework of this study several interviews were conducted with relevant market players and experts and an online survey with relevant stakeholders.

Planned Public consultation

A consultation strategy for the impact assessment will be prepared at the beginning of the process.

A public consultation, addressing all different stakeholder groups, will be carried out to further explore the impacts of the proposed options on all relevant stakeholders, as necessary, and ensure that those who would be affected by the prolongation of the Roaming Regulation can provide their views and opinion.

The public consultation will be launched in May 2020 and will run for a minimum period of 12 weeks. The questionnaire will be available in all 24 official EU languages and replies can be submitted in any of the 24 official EU languages. The public consultation will be accessible via the Commission's central [public consultations page](#) and via <https://ec.europa.eu/digital-single-market/en/roaming>.

The consultation will be promoted through the DG site and in cooperation with BEREC. A synopsis report, summarising the results of all consultation activities will be published on the consultation page once all consultation activities are closed.

Will an Implementation plan be established?

An implementation plan is not envisaged given that this is a regulation that does not foresee a transposition phase and that the implementation, monitoring and supervision mechanisms related to this regulation are already well established and well-functioning, with an essential role played by BEREC.