



Public Consultation on Adoption of the Review and Prolongation of the Roaming Regulation

GIGAEurope Response

May 2021

Introduction

GIGAEurope would like to thank the Commission for the opportunity to submit observations on behalf of our membership, consisting of leading European mobile and fixed network operators and national connectivity trade associations. Jointly, we represent the voice of private investors in very high capacity networks in Europe. GIGAEurope shares the ambition of ensuring transparency for end-users of mobile connectivity across borders, whilst conveying the legal certainty needed to encourage long term private investment into Europe's next generations of mobile and fixed connectivity. With our observations below, GIGAEurope would like to contribute to achieving these ambitions.

1. Competitive wholesale roaming market leads to positive consumer outcomes

Effective competition between MNOs in roaming wholesale markets has led to positive outcomes for consumers and businesses. Commercial negotiations between MNOs and many MVNOs based on volume commitments even resulted in wholesale agreements below the regulated wholesale caps. GIGAEurope believes that **prolongation of the Roaming Regulation for ten years would convey the necessary legal stability for consumers and industry by safeguarding competition at the wholesale level.**

2. M2M permanent roaming warrants no regulatory intervention

GIGAEurope agrees with the Commission's acknowledgement that there is no market failure in terms of operators responding to reasonable requests for M2M roaming agreements and we welcome the clarification in Recital 21 that permanent roaming for M2M sim cards is outside the scope of this regulation and left to commercial agreements. GIGAEurope also welcomes the Commission's intention to assess the evolution of M2M roaming and, should future market or technology developments raise significant competition concerns, consider the extent to which additional rules for M2M should be imposed.

3. Distinguish Quality of Experience from Quality of Service in end-user roaming market

With this Regulation, the Commission wants to enable a "*genuine RLAH experience*" in terms of the QoS provided when roaming. Roaming providers "*shall ensure, when technically feasible*" that regulated retail roaming services are provided at the same quality as domestic services.

Roaming providers should also specify in their end-user contracts “*the quality of service that can be reasonably expected*” when roaming in the EU.

QoS as a technical term is determined by (a combination of) network architecture choices and through IP transit agreements that operators conclude with IP interconnection providers. Operators are able to manage the level of QoS only as far as this concerns the local access infrastructures under their control. From a non-business, end user perspective, it is more appropriate to speak of quality of *experience* (QoE). Depending on choices and investments made in access networks and interconnection – as well as end-user equipment, QoE levels may vary across networks, across markets and across mobile technology generations. This means that for end-users, so-called ‘**best-effort**’ remains the prevailing standard as no single operator has end-to-end control. For this reason, **MNOs usually work with preferred partners for the provision of regulated roaming services with whom certain quality levels can be agreed** on the basis of network similarities. This however still remains ‘best effort’ as in practice, hard QoS guarantees remain a challenge even amongst partners as access networks and both the usage environments and underlying networks may differ. Moreover, this makes ensuring (similar) QoS for customers roaming on mobile networks of *non*-partners close to impossible.

GIGAEurope therefore supports the “when technically feasible” disclaimer but believes that the recitals should also **clarify that “quality of service” in the end-user mobile roaming market should be interpreted as quality of experience based on ‘best effort’** and that this concept should also incorporate commercial and operational feasibility. The recitals should also include language **preserving operators’ flexibility in selecting preferred roaming partners**. It should be avoided that rules are interpreted as a mandatory obligation to negotiate QoS agreements with all operators in visited markets, which would be disproportionate¹, as RLAH QoS expectations for end-users may simply be impossible to meet in case of inferior visited networks, variances in network coverage and in technology adoption across borders. In this way, the current sector dynamic of constant innovation cycles towards QoS competition will be preserved.

4. Establish effective and practical transparency regarding roaming charges for Value Added Services

The revised Regulation aims to increase transparency for roaming customers regarding higher charges that can be incurred for the connection to value added services abroad. Providers will consequently be obliged to send customers, free of charge, a welcome-SMS when the customer enters a country other than that of his domestic provider.

The information required to be included in that SMS relates to the potential risks of increased charges when roaming customers use value-added services.

¹ It would also be disproportionate as ‘the number of consumer complaints regarding roaming has not increased in most Member States following the introduction of RLAH and end-users’ dissatisfaction with the QoS while roaming ranks low among the consumer complaints received by NRAs’ – See: EC (SWD(2019)416 final) <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019SC0416&rid=1>

GIGAEurope supports the endeavor to provide more transparency about roaming charges for accessing value added services. The current **wording of the information to be provided in the welcome-SMS however poses a number of practical implementation issues.**

The current wording in Art. 14 risks placing a **disproportionate burden on operators** under the current terms of the Regulation whereby the Regulation would enter into force before BEREC needs to have established² its central Union-wide database for VAS numbering ranges as required by Art. 17. To avoid the risk of breaching the regulation, this would mean that operators themselves would have to carry out research and checks of all national, unharmonized numbering plans and pricing conditions of value-added services for a period of 18 months. **GIGAEurope believes that the BEREC central VAS numbering database should be in place at the same time as the entry into force of the regulation. Without it, operators simply are not able to comply, as it would be impossible to access the full range of numbering and pricing information across Member States. Alternatively, it could be specified that the specific VAS transparency requirements enter into force later than the Regulation and after the BEREC database has been established.**

GIGAEurope is also concerned that **the quantity of information to be provided in the welcome-SMS is unpractical and counterproductive.** The proposed terms would imply an addition to the already extended set of elements (for example regarding access to emergency services) to be included in the welcome-SMS for roaming customers. The number of characters in an SMS is limited, so the inclusion of all new elements would require the successive sending of messages, which would mean operators having to absorb extra costs, user experience is impaired and there is a risk of information fatigue.

We also propose to facilitate access to reliable VAS information by specifying - in Art.14 and/or in the Recitals - that operators may **comply by providing a link to the BEREC database** in the welcome-SMS, instead of the current undefined “link to a dedicated webpage (..)”. Also, compliance with the obligations in Art. 9.4, where it is foreseen that contracts must include information on VASs that may have roaming costs different from domestic markets, should be possible by a reference to the BEREC database.

5. Additional guidance needed on detail and implementation of Emergency Services retail & wholesale information requirements

GIGAEurope’s concerns regarding the proportionality and practicality of the new transparency obligations also extend to the proposed information at *retail* level on the different possibilities of accessing emergency services to be included in a welcome-SMS to roaming customers, as well as in *wholesale* agreements on all regulatory and technical information needed to implement free-of-charge access to emergency services and free-of-charge caller location.

GIGAEurope supports the rationale for improving clarity on access to emergency services while roaming, we would like to point out:

² The new Regulation will enter into force on 1 July 2022, whereas BEREC is mandated to establish its central VAS numbering database by 31 December 2023.

(i) technical challenges with regard to emergency texts

We believe the obligations contained in Article 16 and Recital 19 represent a somewhat blunt approach in the absence of 'SMS to 112' routing standards across Member States, which means that the technical routing of these SMSs represents a significant technical challenge. Rather than trying to regulate this in the current Review, we believe that, first, a technical working party should be established to define practical 'SMS to 112' routing arrangements, under the auspices of GSMA or EENA.

(ii) implementation challenges related to the **evolution of emergency services** and the **many alternative means of accessing emergency services** for people with disabilities across the Member States (as outlined in the new Recital 19)

In absence of an aggregated, reliable or updated source of information, the new retail and wholesale transparency requirement for emergency services would place a disproportionate burden on operators. They would need to become aware of what alternative means of access to emergency services are mandated in all Member States and of what the most appropriate PSAP (public safety answering point) would be for the purpose of transmitting caller location information. Like in the case of unharmonized value-added services, GIGAEurope believes that this information should be aggregated and published by BEREC, on the same terms that are proposed for the EU-wide VAS database and aligned with the date of entry into force of this Regulation or alternatively aligned with the timing of establishment of the BEREC database.

In respect of the above implementation issues, GIGAEurope calls for additional guidance and possibly a limitation regarding which emergency services will be covered in the current Review as well as the level of detail required to be included in the 'welcome SMS' if this extends to information beyond the European emergency 112 number. Particularly as emergency services are developing – whilst SMS to 112 is the primary alternative method for many Member States now, additional means are already being rolled out across Europe.

About GIGAEurope

GIGAEurope brings together private operators who build, operate and invest in gigabit communications networks that enable Europe's digital connectivity. GIGAEurope members collectively provide connectivity services to over 40 million fixed broadband customers and 130 million mobile customers spanning across Europe. www.gigaeurope.eu

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