



Recommendation of the Council on International Mobile Roaming Services

**OECD Legal
Instruments**

This document is published under the responsibility of the Secretary-General of the OECD. It reproduces an OECD Legal Instrument and may contain additional material. The opinions expressed and arguments employed in the additional material do not necessarily reflect the official views of OECD Member countries.

This document, as well as any data and any map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

For access to the official and up-to-date texts of OECD Legal Instruments, as well as other related information, please consult the Compendium of OECD Legal Instruments at <http://legalinstruments.oecd.org>.

Please cite this document as:

OECD, *Recommendation of the Council on International Mobile Roaming Services*, OECD/LEGAL/0388

Series: OECD Legal Instruments

© OECD 2018

This document is provided free of charge. It may be reproduced and distributed free of charge without requiring any further permissions, as long as it is not altered in any way. It may not be sold.

This document is available in the two OECD official languages (English and French). It may be translated into other languages, as long as the translation is labelled "unofficial translation" and includes the following disclaimer: *"This translation has been prepared by [NAME OF TRANSLATION AUTHOR] for informational purpose only and its accuracy cannot be guaranteed by the OECD. The only official versions are the English and French texts available on the OECD website <http://legalinstruments.oecd.org>"*

Date(s)

Adopted on 16/02/2012

Background Information

The Recommendation on International Mobile Roaming Services was adopted by the OECD Council on 16 February 2012 on the proposal of the Committee for Information, Computer and Communications Policy (now called Committee on Digital Economy Policy). The Recommendation aims to ensure effective competition, consumer awareness and protection, and a fair price level in international mobile roaming services. Therefore, it sets out a number of measures -- presented from the least to the most interventionist -- that governments should consider to address the existing challenges related to international mobile roaming markets. The Recommendation acknowledges that the measures implemented will vary according to domestic circumstances and that any regulatory measures should take into account the principles of the 1995 OECD Recommendation on Improving the Quality of Government Regulation.

THE COUNCIL,

HAVING REGARD to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Resolution of the Council on the Seoul Declaration for the Future of the Internet Economy [C(2008)99] and the Recommendation of the Council on Broadband Development [C(2003)259/FINAL];

CONSIDERING that achieving a level-playing field for competition in communications markets and ensuring transparent and effective consumer protection and empowerment can bring significant benefits for consumers and businesses;

CONSIDERING the need, in the face of convergence across different technological platforms, to encourage effective use of broadband services in order to achieve effective competition in infrastructure, network services and applications;

CONSIDERING the need to enhance the awareness of consumers and businesses regarding the cost of international mobile roaming services, and the availability and benefits of substitute communication services and suppliers;

ACKNOWLEDGING that the measures implemented by Members will vary according to domestic circumstances;

ACKNOWLEDGING that any regulatory measures should take into account the principles of the Recommendation of the Council on Improving the Quality of Government Regulation [C(95)21/FINAL];

RECOGNISING the common challenges encountered by Members with regard to international mobile roaming services and the trans-national dimension of these services;

On the proposal of the Committee for Information, Computer and Communications Policy:

HAVING AGREED that, for the purpose of this Recommendation;

- “international mobile roaming services” (thereinafter “roaming services”) means the use of a mobile telephone or other device by a roaming customer to make or receive calls, to send or receive SMS messages, or to use packet-switched data communications, while in a country other than that in which that customer’s home network is located, by means of arrangements between the operator of the home network and the operator of the visited network;
- “international mobile data roaming services” (thereinafter “data roaming services”) refers to the use of roaming services for the sole purpose of packet-switched data communications;
- “mobile virtual network operator” refers to an operator that provides mobile communication services but does not have its own licensed frequency allocation of radio spectrum;

DETERMINED to take the necessary steps to ensure effective competition, consumer awareness and protection, and a fair price level in international mobile roaming services;

I. RECOMMENDS that, in establishing or reviewing their policies for roaming services, Members consider the following set of measures, which are presented from the least to the most interventionist:

Promoting awareness of roaming prices and substitutes

1. Members should promote awareness of consumers and businesses (thereinafter the “customers”) about the cost of roaming services and the availability of substitutes; and encourage them to compare the functionalities, limitations, distribution channels and cost of these various options.

2. Members should work with domestic communication providers to make this information easily available, particularly at the main points of entry and online.

Promoting transparent information on roaming services

3. Members should promote transparency of information provided to customers by international roaming providers regarding the use and billing of roaming services, through information provided at the point of purchase, personalised messages, general online information or any other cost effective means. In particular, customers should receive appropriate and timely pricing information.
4. Furthermore, data roaming customers should be provided with:
 - a) Information on the risk of automatic and uncontrolled data roaming connections and downloads and explanations about how to switch off these connections;
 - b) Agreed financial limits, beyond which data roaming transmission would be stopped, unless the customer follows an indicated procedure;
 - c) Where available, personalised notifications when data roaming services have reached a certain proportion of an agreed financial limit.

Facilitating trans-national networks and alliances

5. When assessing mergers and acquisitions in mobile markets, Members should examine the potential of trans-national networks to foster the emergence of roaming offers that could benefit customers. In the absence of wholesale regulation of international roaming markets, Members should also examine the potential of mergers to adversely affect the ability of mobile operators in other Members, to negotiate reasonable wholesale terms for roaming services.
6. With a view to promoting the overall interests of customers, Members should also assess and remove barriers that may prevent smaller players from competing with larger players to offer roaming services, in particular by forming trans-national alliances. In removing such barriers, Members should pay due attention that they do not protect inefficient operators, and that these alliances do not in fact reduce competition.

Transparency of Inter-Operator Tariffs

7. Members should encourage discussions with the industry about the transparency of (headline or non-discounted) Inter-Operator Tariffs (IOTs) for international mobile roaming services in order to inform future or current regulatory proceedings in relation to these services. Members could consider collecting data on wholesale roaming rates (discounted IOTs) and publishing benchmarks of aggregate rates that preserve commercial confidentiality. If Members pursue such regulatory actions, consistent with the national approaches of each Member, and make wholesale price information public, Members should ensure that they neither reduce incentives for individual price cutting, nor foster parallel pricing behaviour.

Facilitating access to wholesale mobile services on local terms and conditions

8. Members should assess and remove barriers that may prevent mobile virtual network operators to have access to local wholesale mobile services for the purpose of offering roaming services on fair and reasonable conditions, bearing in mind the constraints for competition in domestic markets. They should also ensure, as appropriate, that mobile virtual network operators benefit from possible regulated wholesale roaming rates between operators in different countries when purchasing wholesale resale roaming in the home country, especially in those cases where mobile virtual network operators have to comply with regulated retail roaming charges.

Wholesale price regulation

9. Where possible, the determination of wholesale roaming prices should be left to the market. However, if Members determine that market dynamics are insufficient to produce reasonably competitive wholesale prices, they are encouraged to regulate wholesale roaming prices, including by reaching bi- or multilateral agreements between Members, as appropriate, and/or through the introduction of price caps based on commonly established principles. Members' trade obligations,

including WTO provisions and principles, should be observed when assessing the possibility of reaching agreements on wholesale price regulation.

Retail price regulation

10. If Members determine that market dynamics are insufficient to guarantee reasonably competitive retail prices they should, as a last resort, implement retail price regulation to protect customers from paying excessive prices for using roaming services. However, where possible, the determination of retail roaming prices should be left to the market.

11. Members should consider a wide body of evidence in setting the level of retail price caps and ensure that no margin squeeze arises as a result of regulated retail prices and high wholesale prices.

12. Those Members implementing wholesale price regulation in conjunction with retail price regulation should ensure the consistency of both approaches.

Assessment of costs and benefits

13. When assessing the appropriateness of introducing wholesale and/or retail roaming price regulation, Members should undertake an impact assessment which takes into account the following issues:

- a) Potential effects on pricing behaviour, including possible waterbed effects or tariff rebalancing that may influence domestic mobile prices, or wholesale roaming prices faced by operators in countries without roaming price regulation;
- b) Elasticity assessment and overall net effect of imposing retail and/or wholesale price regulation;
- c) Likely benefits and drawbacks of such price regulation, including possible effects on investment, innovation and overall consumer welfare;
- d) Periodical review of the effects of the implemented measures, in order to adjust them accordingly.

II. INVITES:

1. Members to liaise with the World Trade Organisation concerning the trade implications of roaming services, as well as with other international organisations with relevant interest or ongoing work on roaming services.

2. Members to disseminate this Recommendation throughout the public and private sectors, including governments, businesses, consumer groups, civil society and other international organisations to encourage all stakeholders to take the necessary steps to improve the functioning of roaming services markets and empower and protect customers.

3. Non-Members to adhere to this Recommendation and collaborate with Members in its implementation.

III. INSTRUCTS the Committee for Information, Computer and Communications Policy to promote and monitor the implementation of this Recommendation and report to Council within three years of its adoption, and as required subsequently, to assess progress made.

Adherents*

OECD Members

Australia
Austria
Belgium
Canada
Chile
Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Iceland
Ireland
Israel
Italy
Japan
Korea
Latvia
Luxembourg
Mexico
Netherlands
New Zealand
Norway
Poland
Portugal
Slovak Republic
Slovenia
Spain
Sweden
Switzerland
Turkey
United Kingdom
United States

Non-Members

* Additional information and statements are available in the Compendium of OECD Legal Instruments:
<http://legalinstruments.oecd.org>

About the OECD

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD Member countries are: Australia, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

OECD Legal Instruments

Since the creation of the OECD in 1961, around 450 substantive legal instruments have been developed within its framework. These include OECD Acts (i.e. the Decisions and Recommendations adopted by the OECD Council in accordance with the OECD Convention) and other legal instruments developed within the OECD framework (e.g. Declarations, international agreements).

All substantive OECD legal instruments, whether in force or abrogated, are listed in the online Compendium of OECD Legal Instruments. They are presented in five categories:

- **Decisions:** OECD legal instruments which are legally binding on all Members except those which abstain at the time of adoption. While they are not international treaties, they entail the same kind of legal obligations. Adherents are obliged to implement Decisions and must take the measures necessary for such implementation.
- **Recommendations:** OECD legal instruments which are not legally binding but practice accords them great moral force as representing the political will of Adherents. There is an expectation that Adherents will do their utmost to fully implement a Recommendation. Thus, Members which do not intend to do so usually abstain when a Recommendation is adopted, although this is not required in legal terms.
- **Declarations:** OECD legal instruments which are prepared within the Organisation, generally within a subsidiary body. They usually set general principles or long-term goals, have a solemn character and are usually adopted at Ministerial meetings of the Council or of committees of the Organisation.
- **International Agreements:** OECD legal instruments negotiated and concluded within the framework of the Organisation. They are legally binding on the Parties.
- **Arrangement, Understanding and Others:** several ad hoc substantive legal instruments have been developed within the OECD framework over time, such as the Arrangement on Officially Supported Export Credits, the International Understanding on Maritime Transport Principles and the Development Assistance Committee (DAC) Recommendations.