

**EXPLANATORY MEMORANDUM TO
THE MOBILE ROAMING (EUROPEAN COMMUNITIES)(AMENDMENT)
REGULATIONS 2013**

2013 No. 822

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations implement articles 16, 17 and 18 of the Regulation (EU) No. 531/2012 of the European Parliament and of the Council of 13th June 2012 on roaming on public mobile communications networks within the Union (“the new Roaming Regulation”). The new Roaming Regulation regulates the European market in mobile roaming services. These are voice, text and data services used by someone using a mobile phone outside his or her own Member State.

3. Matters of special interest to the Joint Committee on Statutory Instruments.

3.1 The Regulations contain transitional provisions at regulation 10. There has been a lapse of time between the coming into force of the directly applicable EU Mobile Roaming Regulation, and the making of these Regulations. The EU Regulation came into force on 1st July 2012, therefore the requirements in that Regulation have been binding on industry since that date.

3.2 However, in order to make the enforcement of the new requirements in the UK effective, we have drafted these Regulations in order to give Ofcom the powers that it requires in order to regulate this area effectively.

3.3 The transitional provisions at regulation 10 make provision in respect of breaches which took place on or after 1st July 2012 but before the coming into force of these Regulations. If the breach takes place in that time window, the 2007 Regulations apply, without the amendments inserted at regulation 4(4A) and (4B), and with the figure of £50,000 reinstated in regulation 5(1).

3.4 If a notification has been given under regulation 3 in respect of a breach under the new Roaming Regulations between 1st July 2012 and the coming into force of the Regulations, then the 2007 Roaming Regulations apply as if regulations 4 to 6 of these Regulations had not been made.

3.5 We do not believe that these transitional provisions have retrospective effect. The obligations in the new Roaming Regulation are already in place on mobile network operators, but Ofcom does not have the appropriate powers to deal with breaches of the new obligations until the coming into force of the Regulations. These transitional provisions do not permit Ofcom to impose the higher level of penalties in relation to breaches which occurred before the coming into force of these Regulations. The transitional provisions will permit Ofcom to investigate breaches of the EU Roaming Regulation between 1st July 2012 and the coming into force of these Regulations, but it may not impose the higher level of civil penalties in respect of behaviour which occurred before the coming into force of the Regulations.

4. Legislative Context

4.1 The new Roaming Regulation (sometimes referred to as “Roaming III”) came into force on 1st July 2012, and replaced Regulation (EC) No. 717/2007 of the European Parliament and of the Council of 27th June 2007 on roaming on public mobile telephone networks within the Community and amending Directive 2002/21/EC as amended by Regulation (EC) No. 544/2009 of the European Parliament and of the Council of 18th June 2009 (“the old Roaming Regulation”). The old Roaming Regulation was implemented by the Mobile Roaming (European Communities) Regulations 2007 (S.I. 2007/1933; “the 2007 Regulations”). These Regulations amend the 2007 Regulations so as to reflect the differences between the new Roaming Regulation and the old one.

4.2 Article 16 of the new Roaming Regulation provides for supervision and enforcement by national regulatory authorities (OFCOM, in relation to the United Kingdom) of the duties in the Regulation, including (in article 16(4)) gathering of information. Article 17 provides for resolution of disputes and article 18 requires Member States to lay down penalties which are effective, proportionate and dissuasive.

4.3 A transposition note is annexed to this Memorandum. The transposition of the new Roaming Regulation in these Regulations is more detailed than that of the old Roaming Regulation in the 2007 Regulations. This reflects the increased extent and complexity of obligations placed on operators by the new Roaming Regulation. In particular these Regulations include:

4.3.1 a power for OFCOM to give directions to operators in relation to reference offers made under article 3 of the new Roaming Regulation (see regulation 3 inserting new regulation 2A into the 2007 Regulations);

4.3.2 new information gathering powers (see regulation 3 inserting new regulation 2B into the 2007 Regulations);

4.3.3 new enforcement procedures based on the ones in sections 96A to 96C of the Communications Act 2003 and including daily penalties (see regulations 4 and 5 amending regulations 3 and 4 of the 2007 Regulations, and regulation 6 inserting new regulation 4A into the 2007 Regulations);

4.3.4 an increased maximum penalty of £2,000,000 (instead of £50,000) for a breach of information requirement, in line with the maximum in the Communications Act 2003 (regulation 7 amending regulation 5 of the 2007 Regulations);

4.3.5 provision for BEREC to be consulted in cross-border disputes, in line with the amendments to article 21 of the Framework Directive on a common regulatory framework for electronic communications networks and services (2002/21/EC_ made by the Better Regulation Directive (2009/140/EC).

- ***Scrutiny history***

4.4 The Department submitted an explanatory memorandum on Council Documents 12639/11 and 12666/11 ADD 1-2 on 21st July 2011 relating to the “Report and Regulation Roaming on public mobile communications networks within the Union”. The House of Commons Committee initially retained the documents under scrutiny requesting further updates and information prior to the Telecoms Council in December 2011 (see 41st Report, 2010/12 session). The House of Lords Sub-Committee B

originally retained the documents under scrutiny requesting more information (see Progress of Scrutiny, 23rd edition, 2010/12 session), following which the draft of the new Roaming Regulation was cleared by the House of Commons European Scrutiny Committee (see 63rd Report, 2010/12 session) and by the House of Lords EU Select Committee (see Progress of Scrutiny, 28th edition, 2010/12 session).

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

• *What is being done and why*

7.1 Costs associated with mobile roaming are currently regulated within the EU, with the first regulation (Regulation (EC) 717/2007) being made in 2007. This introduced price caps and transparency requirements on wholesale and retail roaming rates for voice calls as a measure to try to bring down costs, introduce competition and create a single market for mobile roaming services. That first regulation was amended by the Regulation (EC) 544/2009, which extended price caps and transparency measures to include wholesale and retail SMS (text) rates and wholesale data rates.

7.1.2 The principal measures contained in the latest Regulation include;

- Proposed structural changes to the market;
 - to mandate the availability of roaming services separately from mobile services within the user's own country and;
 - mandating wholesale access to the mobile roaming market by new operators
- continued price caps for wholesale voice telephony, SMS and data services
- continued price caps for retail voice telephony and SMS data services, and new price caps for retail data services (until 30th June 2016);
- all price caps to decline over time ("glide path") with the possibility of being terminated early if market conditions permit; and
- continued price transparency for retail services.

7.1.3 The intention behind this Regulation ("EU Regulation (EU) no 531/2012 "Roaming on public mobile communications networks within the Union") is to maintain price caps on a downward "glide path", combined with two proposals for later structural intervention aimed at facilitating competition in the market (with the expectation ultimately to remove the need for the price caps remedy), and deliver mobile roaming charges at a level the same as, or as near as possible to, domestic mobile charges.

7.1.4 In the UK the revised Regulation lowers prices across voice, SMS and data roaming markets, specifically dealing with the price of data roaming charges for the first time which are a much-cited cause of bill shock.

7.1.5 Amendments to the domestic regulations ensure that Ofcom are effectively able to implement and administer the Regulation in the UK (and ensure that the roaming regulatory regime is consistent with the rest of the electronic communications regulatory regime, and not least the Communications Act 2003).

- **Consolidation**

7.2 Although this instrument makes extensive amendments to the 2007 Regulations, we do not consider the amendments to be sufficient to require the 2007 Regulations to be revoked and replaced. We will consider the possibility of consolidation in the light of any amendments resulting from the review of the 2007 Regulations.

8. Consultation outcome

8.1 We originally consulted with key stakeholders (mobile network operators (MNOs), fixed line operators and consumer groups) in establishing the UK's negotiating position on the original European Commission proposals. We wrote again to those key stakeholders on 1st October 2012, outlining our proposals for implementation and seeking views. We received one response to this communication raising (unfounded) concerns on DCMS specifying remedies for breach of compliance with the Regulation.

9. Guidance

9.1 Ofcom has recently produced (following consultation with operators and others) guidelines on enforcement which provide certainty on what will be required and how investigations will be carried out.

9.1.2 One new change which the Regulation introduces, and where businesses are likely to be unfamiliar with their obligations, is the power for independent national regulatory authorities (OFCOM in the UK) to require network operators to change reference offers on wholesale roaming access. (Operators are required to publish a reference offer containing standard conditions for direct wholesale roaming access or wholesale roaming resale access). OFCOM can intervene if these offers are made on overly restrictive or prohibitive terms.

9.1.3 BEREC, the Body of European Regulators of Electronic Communications, is currently consulting on draft guidance in relation to publication of reference offers and dealing with requests from businesses asking for wholesale roaming access, either directly or through a third party which we expect to be published early next year.

10. Impact

10.1 There will be no impact on charities or voluntary bodies. In relation to businesses only the key stakeholders (MNOs, and mobile virtual network operators MVNOs and resellers) will experience any impact.

10.1.1 Ofcom estimates that in order to respond to information requests, operators (MNOs, MVNOs and resellers) might be expected to incur a cost of around £78,000 per year. Additional costs to Ofcom are expected to be negligible.

10.1.2 The Office for National Statistics' (ONS) Travel and Tourism Bulletin reports that over 14 million trips abroad were made by UK consumers in the three months from March to May 2012. Over three quarters of the trips made by UK consumers are to European destinations. Such consumers will benefit from reduced call charges and a more competitive market in roaming services.

10.1.3 In 2009, the European mobile roaming market was estimated to be € 4.777 billion (£4.423 billion) or 3.68% of the total EU mobile market of €164 billion (£151 billion). In 2011, the mobile roaming market generated around € 1.16 billion (£1.07 billion) in revenue for UK mobile operators, a quarter of which was from data usage. This market, and specifically data usage, is expected to grow substantially, driven by reduced costs to the consumer.

10.2 There will be no impact on the public sector. Additional costs to Ofcom, the independent national regulator, are expected to be negligible.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 In practice, the legislation does not apply to small businesses. Those impacted are transnational telecommunications operators.

11.2 The Regulation applies to MNOs and future MVNOs. There will be no impact on firms employing fewer than 20 people.

12. Monitoring & review

12.1 These Regulations create a requirement on the Secretary of State to review the operation of the 2007 Regulations (see regulation 9 inserting new regulation 19 into the 2007 Regulations). The first review report must be published on or before 30th June 2017. The European Commission is due to review the operation of the new Roaming Regulation and report not later than 30th June 2016.

13. Contact

13.1 John Sexton at the Department for Culture Media and Sport, Tel: 020 7211 6438 or email: john.sexton@culture.gsi.gov.uk can answer any queries regarding the instrument.

Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public communications networks within the Union

The Regulation establishes a common approach to ensuring that users of mobile networks do not pay excessive prices for “roaming”; using voice, text and data services in EU states other than their home country. The Regulation relates to both prices paid by consumers and also to prices paid by network operators for “wholesale access” to networks for the purpose of providing roaming services. The Regulation introduces an average wholesale price cap that must be met by operators when they procure roaming capacity from one another. It also allows for the separate sale of domestic and roaming bundles of services. It also sets a tariff that has to be offered to all roaming customers, with maximum rates for incoming and outgoing calls made, SMS messages and data transfer (web browsing). It also introduces transparency requirements in relation to retail mobile roaming charges. It gives national regulatory authorities obligations to supervise and enforce the Regulation within their territory and requires Member States to put in place dispute resolution measures and to lay down the rules on penalties applicable to infringements of the Regulation.

The Regulation is directly applicable and therefore only those articles which require the Member States to take action require implementation. The UK amending Regulations contain only those provisions required to ensure effective enforcement of the EU Regulation.

<u>Provision of the 2012 Regulations</u>	<u>Requirement in the Regulations</u>	<u>Amendment to the 2007 Regulations</u>
Article 1	Sets out the subject matter and scope of the Regulations.	No implementation required.
Article 2	Sets out definitions used in the Regulations.	No implementation required. However, the 2007 Regulations are amended to update the reference to the Regulation and omit reference to the previous EU Mobile Roaming Regulation.
Article 3	Requires mobile network operators to provide wholesale roaming access to other operators.	No implementation required.
Article 4	Requires domestic providers to enable customers to access voice, SMS and data roaming services as a bundle by an alternative provider (applicable from 1 July 2014).	No implementation required.
Article 5	Sets out the implementation of the separate sale of regulated retail roaming services.	No implementation required.
Article 6	Sets out the procedures to be followed by the Communications Committee	No implementation required.
Article 7	Sets out the wholesale charges which may be made for the making of regulated roaming calls.	No implementation required.
Article 8	Sets out the retail charges (to consumers) for regulated roaming calls.	No implementation required.
Article 9	Sets out the wholesale charges for regulated roaming SMS messages.	No implementation required.

Article 10	Sets out the retail charges (to consumers) for regulated roaming SMS messages	No implementation required.
Article 11	Prohibits operators from altering the technical characteristics of regulated roaming SMS messages.	No implementation required.
Article 12	Sets out the wholesale charges for regulated data roaming services.	No implementation required.
Article 13	Sets out the retail charges (to consumers) for regulated data roaming services.	No implementation required.
Article 14	Sets out the transparency requirements for roaming calls and SMS messages. Providers must provide their customers with information about the costs of roaming.	No implementation required.
Article 15	Sets out the transparency requirement on providers for data roaming services. Providers are required to keep customers informed about data roaming rates.	No implementation required.
Article 16	Requires national regulatory authorities to monitor and supervise compliance in their territories.	Regulations 3 to 7 and 9 amend the 2007 Regulations, to ensure that the powers that Ofcom has allows them to effectively enforce the EU Roaming Regulation.
Article 17	Applies the dispute resolution procedure in the Framework Directive to disputes between undertakings relating to disputes about wholesale roaming access. In relation to consumer disputes, the dispute resolution procedures in Article 34 of the Universal Service Directive apply.	No implementation required. Regulation 7 of the 2007 Regulations allows disputes to be referred to Ofcom in accordance with the provisions of the Communications Act 2003.
Article 18	Requires Member States to have rules on penalties applicable to breaches of the EU Mobile Roaming Regulation.	Regulation 6 amends the 2007 Regulations to make provision for increased penalties applicable to breaches of the EU Regulation and the UK Regulations.
Article 19	Requires the European Commission to review the functioning of the EU Mobile Roaming Regulation and report by 20 June 2016.	Regulation 9 inserts a requirement into the 2007 Regulations requiring the Secretary of State to undertake a review and report of the functioning of the UK Regulations within 5 years of the coming into force of the UK Regulations.
Article 20	Requires Member States to notify the Commission of the identity of the national regulatory authority responsible for enforcing the Regulations	No implementation required. Regulation 2 of the 2007 Regulations states that OFCOM is the national regulatory authority for these purposes in the UK.
Article 21	Repeals the 2007 EU Mobile Roaming Regulations.	No implementation required.

Article 22	Sets out that the Regulation comes into force on the day after publication in the Official Journal, and will expire on 30 June 2022.	No implementation required.
------------	--	-----------------------------

Regulatory Triage Assessment

Title of regulatory proposal	The Mobile Roaming (European Communities Amendment) Regulations 2012
Lead Department/Agency	DCMS
Expected date of implementation	November 2012
Origin	EU
Date	01/11/12
Lead Departmental Contact	John Sexton on 020 7211 6348
Departmental Triage Assessment	Low-cost regulation (fast track)

Rationale for intervention and intended effects

To update existing 2007 Roaming Regulation to implement articles 16, 17 and 18 of the Regulation (EU) No 531/2012 which came into force on 1st July 2012; giving Ofcom the powers it needs to supervise and enforce new aspects of the EU Regulation.

The Roaming Regulation regulates the European market in mobile roaming services. These are voice, text and data services used by someone using a mobile phone outside his or her own Member State.

Viable policy options (including alternatives to regulation)

None. The European Regulation has direct effect in the UK and requires some implementing measures to ensure Ofcom can enforce it properly and to give clarity to business about how Ofcom will enforce the new regime.

Without the changes we are making to existing Regulations there would be a lacuna around Ofcom's powers in relation to enforcement of Roaming Regulations leading to delays in decision-making and possible appeals against Ofcom's use of their powers. Consumers and competition would suffer as a result.

Initial assessment of business impact

The amending Regulations will give effect to the provision in the EU Roaming Regulation that as the UK's National Regulatory Authority, Ofcom will have the power to require businesses to provide information relevant to the implementation and enforcement of the EU Roaming Regulation. The provision is based on the equivalent power Ofcom has under the Communications Act 2003.

In order to respond to information requests, a small number of key electronic communications networks suppliers are expected to incur a cost of around £78,000 per year, although this should be offset by indirect business benefits as a more competitive market appeals to consumers and continues to expand. The information gathering process, which is consistent with information gathering procedures elsewhere in the Communications Act 2003 and electronic communications regulation, will be an integral part of ensuring compliance with the revised regulation.

Additional costs to Ofcom are expected to be negligible.

No substantive concerns have been raised by businesses who will be affected.

We intend to increase the maximum penalty that Ofcom can impose on firms that do not comply with the regulator's information requests, from £50,000 to £2 million. This is consistent with the provisions of the Communications Act 2003. This will only increase costs for firms that are not compliant with their obligation to provide information - it is not considered to be a regulatory cost to business because firms should comply with their legal obligation to provide information when formally requested to do so. In addition, Ofcom will be required to ensure that its fines are appropriate and proportionate to any breaches of this requirement. The new maximum is designed to ensure to provide an effective incentive to comply. At the same time this should provide legal and regulatory clarity and certainty.

Ofcom should have access to complete and accurate information to monitor the market and (if necessary) enforce firms' obligations. Investigations should also be resolved more quickly and efficiently on the basis of reliable information

No substantive concerns have been raised by businesses who will be affected.

The amending Regulations will also give effect to a new power vested in Ofcom to ensure that operators are providing other businesses with access (both direct and via third party organisations) to wholesale roaming. This means that Ofcom can issue operators with directions, whether general or specific in nature, to change a reference offer (operators are required to publish a reference offer containing standard conditions for direct wholesale roaming access or wholesale roaming resale access).

The powers given to Ofcom, including the power to impose changes in reference offers, are contained in the EU Roaming Regulation but with far less precision than in the amending Regulations. The amending Regulations seek to neither go beyond nor achieve less than the corresponding provisions in the EU Roaming Regulation but what they do achieve is added legal clarity and certainty by specifying what processes must be followed in imposing changes in reference offers (i.e. through a direction which is general or specific in nature).

No direct costs to wider business are anticipated at this stage, while there will be significant indirect cost savings with increased competition in the market and continued downward trends in mobile roaming charges, combined alongside legal and regulatory clarity and certainly

Again, no substantive concerns have been raised by businesses who will be affected.

One-in, One-out status

Out of scope. This measure relates to the implementation of EU legislation, and do not go beyond minimum EU requirements.

Regulations are already in place (Mobile Roaming (European Communities) Regulations 2007 No 1933) which are updated by our proposed Regulation in order to implement changes in the 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.

There will be a very small scale administrative cost associated with information gathering for the major mobile operators (well within the "low cost regulation" parameters of £1m per annum) which in the longer term will be balanced with

significant market deregulation and competition.

Rationale for Triage rating

We are proposing to update existing Regulations in order to ensure the full and effective operation of a directly applicable EU Regulation on mobile roaming costs.

Minimal additional costs will be incurred by the major players in electronic communications networks and services complying with the new regime while at the same time significant competition and consumer benefit will be facilitated in the market place with the associated consumer and business benefits and an anticipated increase in the take up of mobile roaming (particularly data services).

Departmental signoff (SCS): Simon Towler Date: 05/11/2012

Economist signoff (*senior analyst*): John Lepper Date: 05/11/2012

Better Regulation Unit signoff: Alex Martin Date:
05/11/2012

Supporting evidence

1. The policy issue and rationale for Government intervention

The new EU Regulation (EU) no 531/2012 “Roaming on public mobile communications networks within the Union” – (“Roaming III”) came into force on 01 July 2012. While its provisions have direct effect, and the UK Regulations remain in force, there are some areas where we need to update the existing UK Regulations in order to ensure that the Regulation is fully effective in the UK.

Clearance was sought from the Economic Affairs Cabinet Committee (EACC) and the Reducing Regulation Committee (RRC) on 12th September 2011 and included a Checklist for analysis on EU proposals, along with the BEREC Analysis of the European Commission’s Proposal for a Regulation on Roaming COM (2011) 402 of 6th July 2011, and was cleared by the EACC on 7th October 2012.

Changes are required to existing UK Regulations in order to ensure that Ofcom has the powers it needs to enforce the new aspects of the Roaming III regulation. This will ensure the full benefits of Roaming III can be achieved in the UK namely:

- effective competition which brings tangible benefits to consumers, in particular through access to more operators and therefore greater choice of services and lower prices;
- promote investment and innovation in the roaming market as the barriers to the provision of roaming services to those customers tied to mainstream operators are removed;
- protect consumers’ interests.

2. Policy objectives and intended effects

Our objectives and intended effects in making the changes are to:

- Ensure the new Roaming III regime can be properly enforced by Ofcom, taking into account the fact that the new regime is more complex than the one it replaces; and
- Give clarity to business as to how Ofcom will administer the Roaming regime by (as far as possible) being consistent with changes which have been made to the Communications Act 2003 provisions on which the 2007 Regulations were modelled (through implementation of the Framework Review).

We want there to be clarity about how Ofcom will enforce the new EU Regulation and leave no doubt as to the powers they have to collect information and require action in pursuit of the consumer benefits which will flow from the Regulation. With this in mind we have sought to mirror the new regime on existing provisions in the Communications Act 2003 with which all parties are familiar.

We propose to make changes to the current regulations, Mobile Roaming (European Communities) Regulations 2007 (No. 1933), as amended in 2009 by SI 2009/1591 – by laying two negative resolution statutory instruments under Section 2(2) of the European Communities Act. This application to the RPC refers to the first SI only.

The table below sets out the changes we propose to make:

UK Regs	Subject	Proposed change
n/a	Introduction	n/a
1	Citation, commencement and interpretation	We propose to include transitional provisions in the amending Regulations, but these will not amend the 2007 Regulations. Some changes to definitions etc.
2	National regulatory authority	No change.
New 2A	OFCOM directions on reference offers	OFCOM to have power to give providers directions about reference offers under art 3 of new EU Regulation
New 2B	Information requirements	OFCOM to have power to request information
3, 4 and new 4A	Notification of breach, penalties for breach and enforcement of notification	We propose to include provisions mirroring ss 96A to 96C of the Comms Act.
5	Amount of penalty under reg 4	We propose to align penalties for breach of information requirements with the Comms Act.
New	<i>Criminal penalties for</i>	<i>It is proposed that this will be contained in the</i>

5A	<i>breach of information requirements</i>	<i>second SI under the two stage process</i>
6	Calculation of turnover	No change.
7-10, 12-13	Reference of disputes to Ofcom	No change.
11	Disputes involving other Member States	We propose to align reg11 with s 189 of Comms Act to provide for consultation of BEREC etc.
14-16	Appeals	No change.
New 17-18	Service of notifications etc	We propose to replicate these “boiler plate” provisions in ss 394-395 of Comms Act to clarify how notifications etc should be served under the UK Regulations
New 19	Review	Five-year statutory reviews of UK Regulations (in accordance with Government policy) , first review by 30 June 2017

3. Policy options considered, including alternatives to regulation

The EU Regulation has direct effect in the UK and we have therefore considered whether the existing UK Regulations could be relied on. Following discussions with Ofcom, and taking into account changes to the Roaming regime and to the Communications Act 2003 on which the 2007 Regulations were modelled, we consider that the current Regulations are not fit for purpose for the new European regime and could not be relied on to ensure that Roaming III is fully effective and enforceable in the UK.

In particular we consider:

- that the new requirement for Ofcom to give directions to operators in relation to reference offers requires implementing measures;
- we should give clarity to business about Ofcom’s information gathering powers and sanctions rather than rely on the broad power in the EU Regulations;
- we should give clarity to business about enforcement procedures and provide the option for Ofcom to require remedies for breaches rather than rely on penalties if providers are found to be breaching the EU Regulations.

4. Expected level of business impact

Laying the SIs and amending the current domestic Roaming regulations (Mobile Roaming (European Communities) Regulations 2007 (No. 1933) will implement a new power vested in Ofcom, required by the EU Regulation, to ensure that operators are providing other businesses with access (both direct and via third party organisations) to wholesale roaming.

This means that Ofcom can issue operators with directions, whether general or specific in nature, to change a reference offer (operators are required to publish a reference offer containing standard conditions for direct wholesale roaming access or wholesale roaming resale access). This could, for example, be in relation to the description of the offerings relevant for direct wholesale roaming access and wholesale roaming resale access and/or the associated terms and conditions.

This will increase competition in the market, facilitating market entry to Mobile Virtual Network Operators (MVNOs) with the associated benefits to consumers.

Only operators who only allow wholesale access on overly restrictive or prohibitive terms are most likely to be affected by this power, but only to the extent that they are not compliant with their obligations under the EU Roaming Regulation. As in other areas of its enforcement work, Ofcom will continue to ensure that enforcement work is well targeted, effective and proportionate.

Ofcom have determined, in consultation with industry, that in order to respond to information requests, a small number of key electronic communications networks suppliers are expected to incur a cost of around £78,000 per year as in complying with the directly applicable parts of the European legislation. Additional costs to Ofcom are expected to be negligible.