

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Seventh Delegated Legislation Committee

DRAFT MOBILE ROAMING (EU EXIT)  
REGULATIONS 2019

*Tuesday 26 February 2019*

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**Saturday 2 March 2019**

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**The Committee consisted of the following Members:**

*Chair:* JAMES GRAY

Abrahams, Debbie (*Oldham East and Saddleworth*)  
(Lab)

† Afriyie, Adam (*Windsor*) (Con)

† Ali, Rushanara (*Bethnal Green and Bow*) (Lab)

† Bacon, Mr Richard (*South Norfolk*) (Con)

† Bruce, Fiona (*Congleton*) (Con)

† Byrne, Liam (*Birmingham, Hodge Hill*) (Lab)

† Clarke, Mr Simon (*Middlesbrough South and East Cleveland*) (Con)

† Day, Martyn (*Linlithgow and East Falkirk*) (SNP)

† Docherty, Leo (*Aldershot*) (Con)

† Eagle, Maria (*Garston and Halewood*) (Lab)

† Elmore, Chris (*Ogmore*) (Lab)

† Fellows, Marion (*Motherwell and Wishaw*) (SNP)

† Freer, Mike (*Lord Commissioner of Her Majesty's Treasury*)

† Goldsmith, Zac (*Richmond Park*) (Con)

† Green, Chris (*Bolton West*) (Con)

† James, Margot (*Minister for Digital and the Creative Industries*)

† Smeeth, Ruth (*Stoke-on-Trent North*) (Lab)

Anwen Rees, *Committee Clerk*

† **attended the Committee**

# Seventh Delegated Legislation Committee

Tuesday 26 February 2019

[JAMES GRAY *in the Chair*]

## Draft Mobile Roaming (EU Exit) Regulations 2019

2.30 pm

**The Minister for Digital and the Creative Industries (Margot James):** I beg to move,

That the Committee has considered the draft Mobile Roaming (EU Exit) Regulations 2019.

It is a pleasure to serve under your chairmanship, Mr Gray.

I am aware of the level of interest in this statutory instrument and by laying it under the affirmative procedure, the Government welcome full scrutiny of the measures. The draft regulations were laid before the House on 4 February.

Leaving the EU with a deal remains the Government's top priority. Nothing has changed about that. However, the Government must plan for every eventuality, including a no-deal scenario. If the UK were to leave the EU without an agreement in place, this instrument would provide legal clarity for mobile operators and their customers on the regulations for the use of mobile services when travelling in the EU.

The draft regulations were introduced under section 8 of the European Union (Withdrawal) Act 2018 to correct deficiencies in the statute book that will result from the UK exiting the European Union. They will amend EU retained law on roaming by removing obligations that will no longer be enforceable once the UK leaves the EU's single market. They also retain important consumer protections. A technical notice was published on 13 September and has subsequently been updated. It provides clear information to mobile operators, consumers and businesses on what the UK's exit from the EU means for mobile roaming regulations. It also outlines what this instrument aims to do.

Before outlining the details of the draft instrument, it may be helpful if I give Members some context about mobile roaming services and the European law that currently applies. Mobile roaming is a service that enables consumers to use their mobile devices to make calls, send texts and use data services outside the UK. Roaming offers are underpinned by commercial agreements between UK operators and operators in other countries, which allow customers to use their networks at an agreed price. The EU roaming regulation reinforces the EU's single market by capping the amounts operators can charge each other when customers use their networks. Only by limiting those wholesale rates can operators guarantee surcharge-free roaming to their customers.

Once we leave the EU, the UK will not be part of the single market, and that means it will not be possible to limit the charges that European operators place on UK mobile companies. If British operators were forced to offer surcharge-free roaming regardless of how much

they themselves were charged, it could have damaging consequences for UK mobile operators and consumers. The result of that one-sided regulation would be either price rises for consumers across all mobile services or the removal of roaming altogether from some packages. Neither of those outcomes is fair or in the interests of UK companies or consumers.

However, the Government want to keep consumer protections in place. There are many consumer protections that are not dependent on our membership of the EU and that can be retained, such as the requirement of a financial limit on data usage, transparency obligations and support for customers at risk of inadvertent roaming.

The Government are legislating to make sure that the requirement on mobile operators to apply a financial limit on mobile data usage while abroad is retained in UK law. The limit will be set at £45 per monthly billing period, which is the same limit that is currently in place. After reaching the limit, the customer is not able to consume more data unless they make an active choice to do so. That will apply worldwide, not just in the EU and the European economic area.

We are also legislating to ensure that customers continue to receive alerts at 80% and 100% of their data usage. Again, that will benefit customers travelling anywhere in the world.

In addition, the EU roaming regulation requires operators to take reasonable steps to protect customers from paying roaming charges for inadvertently accessing roaming services, such as when a phone used in a border region of one country picks up the mobile signal from a network based in another. We know that that affects some people in Northern Ireland, so we will keep obligations on mobile companies to protect customers from paying charges for inadvertently accessing roaming services.

Those measures mean clarity and certainty for consumers and businesses. They make sure that mobile users are able to manage their spending and data usage. They are working well for consumers at present and can work well after the UK leaves the EU. The draft instrument will therefore retain those provisions. The retained provisions will continue to be enforceable after we leave the EU by the regulator, Ofcom.

Leaving without a deal would not prevent UK mobile operators from making and honouring commercial arrangements with mobile operators in the EU and beyond to deliver their services as customers expect, including roaming arrangements. The availability and pricing of mobile roaming in the EU after a no-deal exit would be a commercial question for mobile operators. Many mobile operators, including Three, EE, O2 and Vodafone, which together cover more than 85% of mobile subscribers, have said that they have no current plans to change their approach to mobile roaming after the UK leaves the EU.

We are committed to ensuring that the law on mobile roaming continues to function after we leave the EU. The draft regulations will help that to happen by correcting deficiencies in existing legislation. I commend the draft regulations to the Committee.

2.36 pm

**Liam Byrne** (Birmingham, Hodge Hill) (Lab): It is a pleasure to serve under your chairmanship, Mr Gray.

In front of the Committee is another example of how ill-prepared the Government are for a no-deal situation, which is why the Prime Minister should have moved much earlier to take no deal off the table.

The draft instrument enshrines several important proposals, such as the need for transparency to protect consumers, but it falls hopelessly short of the level of consumer protection we ought to be able to promise our constituents in the event of a no-deal Brexit. In particular, it proposes an extraordinary degree of deregulation, which will allow the protection against exorbitant roaming charges to be stripped away from our constituents in the event of a no-deal Brexit.

I do not accept the Minister's argument that it was too difficult to broker some kind of agreement with UK mobile companies, which are big, global and highly profitable firms. I therefore do not accept that the consequences that she spelled out will come to pass if we do not pass the draft instrument. That is simply a failure of policy work and of political imagination.

The Opposition cannot support a draft instrument that will shear away protections that many of our constituents have against exorbitant charges while travelling through Europe. We will therefore oppose the draft regulations.

2.38 pm

**Martyn Day** (Linlithgow and East Falkirk) (SNP): It is a pleasure to serve under your chairmanship, Mr Gray.

I am grateful for the Minister's summary of the position. However, I find myself in complete agreement with the Opposition spokesperson, and I cannot support the draft instrument. It highlights the absolutely chaotic consequences of a no-deal situation. It will remove the requirement for UK mobile operators to guarantee surcharge-free roaming, and it gives some certainty to mobile operators, which are multinational conglomerates, but no certainty to our constituents.

Worryingly, it gives no certainty to our constituents who run small businesses, who have higher data use and who will be required to use their mobile phones while in Europe. It has been estimated that if the maximum costs prior to 2017—when roaming charges were scrapped—were brought in, they could be looking at additional costs of around £778 for a month in Europe. That would be catastrophic for a small business. The complication is even worse for people in Northern Ireland and the Republic of Ireland, who may regularly work across the border. I cannot support that situation. I will be voting against the statutory instrument.

We heard earlier in the month that two of the 12 major mobile firms were committed to keeping roaming free, and the Minister made reference to four companies having no current plans to change their practices. I will sum that up by saying that I have no current plans for dinner tonight, but I am definitely having one, so I am not convinced by what they say.

2.40 pm

**Margot James:** I thank Members for their remarks. We are supportive of the regulations because we believe, given that the country has decided to leave the European Union, that we are at least protecting consumers against bill shocks and inadvertent roaming.

The right hon. Member for Birmingham, Hodge Hill asked why we cannot impose a price control. If we were to try to do that, it would result in either the company's entire user base having to accept higher prices or individual users who partake in roaming having to pay higher prices. For the benefit of consumers, we have put in place the monthly cap of £45, at which point they are notified that they are running towards a higher bill. They then have to exercise choice as to whether they want to use more data or use their phone further during their travels.

**Liam Byrne:** The Government are prepared to accept caps on energy prices, yet they are not bringing that principle to mobile phone policy. If we have energy caps, why can we not have mobile phone caps?

**Margot James:** I recall that an argument against energy caps was that they would establish a precedent. The Competition and Markets Authority found a vast amount of consumer detriment in energy. Many things were tried to get energy companies to be fairer in their billing practices. In the end, a price cap was agreed. It is too soon to assess the outcome of that decision, and it is certainly too soon to apply it at random in other markets.

We have introduced safeguards and the Regulatory Policy Committee assessed the impact assessment and made a conclusion on whether prices may rise in the future. I appreciate the comment by the hon. Member for Linlithgow and East Falkirk that the fact that companies have no plans to introduce price rises is no guarantee, but those companies have made that statement of good intent. They do not want to raise prices for their consumers. We must not force operators so that they are not effective in the future.

I have explained why we have not introduced price controls. It is a commercial matter—this is a market. We have sought to provide as much protection as possible, but the ultimate protection against roaming charges lies with the country staying in the single market, which it has taken the decision not to do. In those circumstances, the regulations are the best possible outcome for consumers, and I commend them to the Committee.

*Question put.*

*The Committee divided: Ayes 9, Noes 7.*

#### Division No. 1]

#### AYES

Afriyie, Adam	Freer, Mike
Bacon, Mr Richard	Goldsmith, Zac
Bruce, Fiona	Green, Chris
Clarke, Mr Simon	James, Margot
Docherty, Leo	

#### NOES

Ali, Rushanara	Elmore, Chris
Byrne, rh Liam	Fellows, Marion
Day, Martyn	Smeeth, Ruth
Eagle, Maria	

*Question accordingly agreed to.*

2.44 pm

*Committee rose.*





