



Department  
for Culture  
Media & Sport

Minister of State for Digital and Culture  
4th Floor  
100 Parliament Street  
London SW1A 2BQ

T: 020 7211 6000

[www.gov.uk/dcms](http://www.gov.uk/dcms)

Sir William Cash MP  
Chair of the European Scrutiny Committee  
House of Commons  
14 Tothill Street  
London, SW1H 9NB

CMS 302022/DC  
20 April 2017

Dear Bill

**Commission's report on the review of the wholesale roaming market 10327/16**  
**Commission's proposal for a regulation on rules for wholesale roaming 10329/16**  
**The wholesale roaming markets regulation**

The European Scrutiny Committee's report of 29 March concerning wholesale roaming charges included a list of supplementary questions. I have endeavoured to answer these below. For ease of reading, I have quoted the Committee's questions directly and responded underneath.

- *confirm whether he believes the UK will not be able to retain surcharge-free roaming in the EU post-exit, which seemed to be the implication of his previous statement that "UK consumers will experience a period of free regulated roaming before the UK's exit from the EU", and briefly explain the basis of his assessment;*

**The UK's decision to leave the EU does not mean there will be an automatic re-introduction of roaming charges - for example, some operators already offer surcharge free roaming to their customers. We will be seeking the best possible outcome for British consumers and business as we head towards EU exit.**

- *clarify whether he agrees with EU Commissioner Günther Oettinger's assessment that WTO rules mean that continued UK-EU surcharge-free roaming arrangements could only be concluded in the context of a comprehensive Free Trade Deal;*



**We will examine precedents from free trade agreements and other international agreements including Memoranda of Understanding<sup>1</sup> on roaming charges.**

- *provide an assessment of the implications of non-participation in the EU-wide abolition of roaming surcharges for consumers.*

*In answering the previous question, we ask that the Minister clarify:*

- *If economists in DCMS or any other Government department have produced an assessment of the effect that non-participation in the EU roaming regulations would have on roaming charges themselves and how UK operators and consumers would be affected?*
- *Whether DCMS economists accept or reject Oxera consultancy's analysis of this kind, which concludes that UK operators would benefit financially if the UK ceased to participate in the EU roaming regulations, but that this would be partly funded by the increased roaming charges UK consumers would incur?*

**It is difficult at this stage to assess how non-participation in the EU roaming regulations might affect roaming charges, once consumers had enjoyed this benefit for the period from 15 June 2017 until the UK's exit from the EU or until the termination of any potential transitional arrangements yet to be negotiated. The market in mobile communications is itself changing, with voice and text usage increasing little, but rapid growth in data consumption. We expect mobile roaming in the EU to move from a low volume, high charge model to one in which the volumes are much higher but the charges lower. Another variable is the growth in public wi-fi, which might restrict somewhat the increases in data roaming as consumers choose to use Over The Top services such as WhatsApp instead of regular mobile telephony. For these reasons, no assessment of this sort has been undertaken; nor do we believe it will be of value in setting policy until surcharge free roaming has become a fact. The Oxera analysis makes an interesting point, but one based on current market conditions.**

**Similarly, an analysis of the impact on operators of ceasing to participate in the EU roaming regulations is unlikely to be valid until the effects of implementing roam like at home are known.**

### **Great Repeal Bill**

- *Finally, the Committee is not persuaded by the Minister's view that the Great Repeal Bill will ensure that "the same rules and laws will apply on the day after Brexit as they did before, including for roaming".*
- *The cross-border nature of roaming itself and the necessarily reciprocal nature of the EU roaming regulations means that, post-exit, even if the Government chose to retain the same EU rules in domestic law through the Great Repeal Bill, those rules would not have the same effect as at present (in the absence of a bilateral agreement with the EU27). The Government would be able to cap the wholesale*

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<sup>1</sup> See p. 11 of a recent OECD report "Developments in International Mobile Roaming"  
[http://www.oecd-ilibrary.org/science-and-technology/developments-in-international-mobile-roaming\\_5jm0lsq78vmx-en](http://www.oecd-ilibrary.org/science-and-technology/developments-in-international-mobile-roaming_5jm0lsq78vmx-en)

*roaming charges that UK-based operators could impose on EU operators for using their networks, but could not require EU-based operators to reciprocate when the UK consumers used EU networks. EU operators would, in consequence, be free to charge UK operators higher wholesale roaming charges if they wished, which would quickly have the effect of rendering surcharge-free roaming services commercially unviable for UK networks.*

- *It is important that this point is clarified at the earliest opportunity, as the Minister's belief that an assessment of the implications of divergence from the EU on roaming can wait until we have left the EU is clearly based on the assumption that we can retain the status quo at the moment of exit.*
- *To address our concerns we ask the Minister to commission a legal assessment from the Department's lawyers of whether or not it would be possible to ensure the continuation of present roaming arrangements solely through the Great Repeal Bill, in the absence of any bilateral agreement, and to provide us with a summary of this assessment.*

**Legal assessments form part of our preparations for the Great Repeal Bill, but as you will be aware, internal Government legal advice is not publicly disclosable. However, since I wrote my last letter to your Committee, the Government has published the white paper on the Great Repeal Bill<sup>2</sup>. Paragraph 1.24(c) explains that:**

***...the Bill will create powers to make secondary legislation. This will enable corrections to be made to the laws that would otherwise no longer operate appropriately once we have left the EU, so that our legal system continues to function correctly outside the EU, and will also enable domestic law once we have left the EU to reflect the content of any withdrawal agreement under Article 50.***

I very much hope that the points above answer the Committee's questions, at least as far as is possible for the time being.

I am copying this letter Les Saunders (Cabinet Office) and Nazmeen Chowdhury (Departmental Scrutiny Co-ordinator).

Yours ever



**THE RT HON MATT HANCOCK MP**