

Pursuant to Article 8, paragraph 1, point 1) and Article 23, paragraph 1 of the Law on Electronic Communications, ("Official Gazette of RS", No. 44/10, 60/13-US, 62/14 and 95/18 - other Law) and Article 12, paragraph 1, point 1) and Article 16, point 4) of the Statute of the Regulatory Agency for Electronic Communications and Postal Services ("Official Gazette of RS", No. 125/14 and 30/16), and in connection with Article 5 para. 2 to 4 and Article 6, paragraph 2 of the Agreement on the Price Reduction of the Roaming Services in Public Mobile Communication Networks in the Western Balkans region, concluded and signed in Belgrade, on April 4, 2019,

the Management Board of the Regulatory Agency for Electronic Communications and Postal Services, at the 2<sup>nd</sup> session of the fourth convocation held on 28<sup>th</sup> April 2021, issues the following

## **RULEBOOK**

### **on the application of fair use policy and on the methodology for assessing the sustainability of the abolition of retail roaming surcharges and on the application to be submitted by a roaming provider for the purposes of that assessment**

#### **I. INTRODUCTORY PROVISIONS**

##### **Article 1**

This Rulebook regulates the application of a fair use policy that operators of public mobile communication networks, as providers of roaming services, may use in terms of consumption of regulated retail roaming services provided at the applicable domestic retail prices, methodology for assessing the sustainability of the abolition of retail roaming surcharges, which the Regulatory Agency for Electronic Communications and Postal Services (hereinafter: the Agency) shall apply when assessing whether the roaming provider is unable to recover the costs of providing regulated roaming services, with the effect that the sustainability of its domestic charging model would be undermined, as well as the application submitted by the roaming provider to the Agency for that purpose, that is, for the authorisation to apply a roaming surcharge.

The methodology for assessing the sustainability of the abolition of retail roaming surcharges is given in Annex 1 and Annex 2, which are printed together with this Rulebook and form an integral part thereof.

##### **1. The meaning of certain terms**

##### **Article 2**

Certain terms used in this Rulebook have the following meanings:

- 1) *the group* means a parent undertaking and all its subsidiary undertakings subject to its control;

- 2) *the visiting network* is a terrestrial public mobile communication network (hereinafter: mobile network) on the territory of the Western Balkans, other than domestic network of the roaming service provider, which allows a roaming user to make or receive calls, to send or receive SMS messages or to use packet switched data communications;
- 3) *domestic retail price* represents the retail unit price of the roaming service provider which is applied to calls made and SMS messages sent, originating and terminating on different public communication networks in the Republic of Serbia, i.e. to data transmission consumed by the user, and when there is no specific domestic retail unit price means the same charging mechanism as that applied to the customer for calls made and SMS messages sent, originating and terminating on different public communication networks in the Republic of Serbia, i.e. for data transmission consumed by the customer in the Republic of Serbia;
- 4) *mobile retail services* means public mobile communications services provided to end users, including voice, SMS and data services;
- 5) *mobile services margin* means earnings, before interest tax depreciation and amortization, from the sale of mobile services other than retail roaming services provided within the Western Balkans, thereby excluding costs and revenues from retail roaming services;
- 6) *open data bundle* is a tariff plan for the provision of one or more mobile retail services which does not limit the volume of mobile data retail services included against the payment of a fixed periodic fee, or for which the domestic unit price of mobile data retail services, derived by dividing the overall domestic retail price, excluding VAT, for mobile services corresponding to the entire billing period by the total volume of mobile data retail services available domestically, is lower than the regulated maximum wholesale roaming charge;
- 7) *visited economy in the region of the Western Balkans* represents the economy in the region of the Western Balkans which is not the economy of the domestic roaming service provider;
- 8) *prepaid tariff plan* means a tariff plan under which mobile retail services are provided upon deduction of credit made available by the customer to the operator of public mobile communications networks (provider) on a per-unit basis, in advance of consumption, and from which a customer may withdraw without penalty upon exhaustion or expiry of credit;
- 9) *regulated roaming SMS message* is an SMS message sent by a roaming customer originating on the visited network and terminating on the terrestrial mobile network in the Western Balkans region or an SMS message received by the roaming customer, originating on the terrestrial mobile network in the Western Balkans region and terminating on the visited network, whereby the regulated roaming SMS message must have the same technical parameters as the SMS message in domestic traffic;
- 10) *regulated roaming data service* is a service enabling the use of packet switched data communications by a roaming customer by means of his mobile phone device while connected to a visited network in the Western Balkans region and does not include the transmission or receipt of regulated roaming calls and regulated roaming SMS messages, but includes the transmission and receipt of roaming MMS messages;
- 11) *regulated roaming call* is an outgoing voice telephony call made by a roaming customer in a terrestrial mobile network, originating on a visited network and terminating on a public

communications network in the Western Balkans region or an incoming voice telephony call received by a roaming customer in a terrestrial mobile network, originating on a public communications network in the Western Balkans region and terminating on a visited network, where a regulated roaming call includes only a terrestrial mobile network voice telephony call and not a call made via mobile data service;

12) *stable links* are connections that imply frequent and substantial presence on the territory of the Republic of Serbia, which refers to a full-time and durable employment relationship, including that of frontier workers, from durable contractual relations that require a similar degree of physical presence of a self-employed person; participation in full-time recurring courses of study, or other situations, such as those of posted workers or retired persons, when they require a similar degree of physical presence on the territory of the Republic of Serbia.

## II. FAIR USE POLICY

### 1. Basic principle

#### Article 3

The roaming service provider shall provide regulated retail roaming services at domestic prices to its roaming customers who have a permanent or temporary residence in the Republic of Serbia or have stable links entailing a frequent and substantial presence in the Republic of Serbia.

Any fair use policy applied by the roaming service provider in order to prevent abuse and anomalous use of regulated retail roaming services is subject to the conditions prescribed in Art. 4 and 5 hereof and ensures that such roaming customers are provided with access to regulated retail roaming services at domestic retail prices during periodical travels to the visited economies in the Western Balkans region, under the same conditions as if such services were consumed domestically.

### 2. Fair use

#### Article 4

For the purpose of applying the fair use policy, the roaming service provider may require its roaming customers to provide proof of permanent or temporary residence in the Republic of Serbia or other stable links with the Republic of Serbia, entailing a frequent and substantial presence on its territory.

Without prejudice to any applicable domestic volume limit, in the case of an open data bundle, the roaming customer shall be able to consume during periodical travels in the Western Balkans region, a volume of data roaming retail services at the domestic retail price, equivalent to at least twice the volume obtained by dividing the overall domestic retail price of that open data bundle, excluding VAT, corresponding to the entire billing period, by the maximum wholesale roaming charge for regulated roaming data service.

In the event of bundled sale of mobile retail services with other services or terminals, the overall domestic retail price of a data bundle shall be determined in accordance with Article 2, point 6) hereof, taking into account the price applied to the separate sale of mobile retail services component of the bundle, excluding VAT, if available, or the price for the sale of such services with the same characteristics on the stand-alone basis.

In the case of prepaid tariff plans, as an alternative to the fair use policy requirement referred to in paragraph 1 herein, the roaming provider may limit the consumption of retail roaming data services in the Western Balkans at the domestic retail price to volumes equivalent to at least the volume obtained by dividing the overall amount, excluding VAT, of the remaining credit available, and already paid by customer to the operator of public mobile communication networks at the moment of commencing roaming, by the maximum wholesale roaming charge for the regulated roaming data service.

In order to prevent the misuse or anomalous usage of regulated retail roaming services provided at applicable domestic retail prices, the roaming service provider may, in accordance with the law governing electronic communications in the part relating to the processing of traffic data, apply fair, reasonable and proportionate control mechanisms based on objective indicators related to the risk of abusive or anomalous use beyond the periodic travelling in the Western Balkans region.

Objective indicators referred to in paragraph 5 herein may include measures to establish whether customers have prevailing domestic consumption over roaming consumption or prevailing presence of the customer in the Republic of Serbia over presence in other visited economies in the Western Balkans.

In order to ensure that roaming customers engaged in periodic travel are not subjected to unnecessary or excessive alerts pursuant to Article 5, paragraph 5 hereof, a roaming service provider which apply such measures to establish the risk of abusive or anomalous use of roaming services shall observe such indicators of presence and consumption cumulatively and for a period of at least 4 months.

The roaming service provider is obliged to specify in contracts with roaming customers to which mobile retail service or services the consumption indicator and the minimum duration of the observation period.

Prevailing consumption or prevailing presence of the roaming customer in the Republic of Serbia over the other visited economies in the Western Balkans region during the defined observation period shall be considered as a proof of non-abusive or non-anomalous usage of regulated retail roaming services.

Any day when a roaming customer has logged on to the domestic network, in accordance with para. 6, 7 and 9 herein, shall be counted as a day of presence of that customer in the Republic of Serbia.

Other objective indicators of a risk of abusive or anomalous use of regulated retail roaming services provided at the applicable domestic retail prices are:

- 1) long inactivity of a given SIM card associated with use mostly, if not exclusively, while roaming;
- 2) subscription and sequential use of multiple SIM cards by the same customer while roaming.

If the roaming service provider establishes, with objective and substantiated evidence, that a number of SIM cards have been the object of organised resale to persons not effectively residing in or having stable links, entailing frequent and substantial presence in the Republic of Serbia, in order to enable consumption of regulated retail roaming services provided at the applicable domestic retail prices, other than for the purpose of periodic travel, the roaming service provider may take immediate proportionate measures in order to ensure compliance with all conditions of the underlying contract.

### **3. Transparency and supervision of fair use policy**

#### **Article 5**

A roaming service provider applying the fair use policy is obliged to include in the general conditions for the provision of services and contracts with roaming customers all the conditions associated with that policy, including any control mechanisms referred to in Article 4, para. 5-11 hereof.

The roaming service provider is obliged to notify the Agency about the fair use policies, by submitting to the Agency the subscription contract model for the approval.

Where there is objective and substantiated evidence, based on objective indicators referred to in Article 4, para. 5-11 hereof, indicating a risk of abusive or anomalous use of regulated retail roaming services in the Western Balkans region, at the domestic retail prices by a given customer, the roaming provider alert the customer about the detected behaviour pattern indicating such a risk before applying any roaming surcharge to the domestic retail price.

The provision of paragraph 3 herein shall apply irrespective of the provision by the roaming customer of the documentary evidence of residence or other stable links entailing frequent and substantial presence in the Republic of Serbia.

When alerting the roaming customer pursuant to paragraph 3 herein, the roaming service provider shall inform the customer that, in the absence of a change in the usage pattern within a period which cannot be shorter than 15 days from the date of alert receipt, demonstrating actual consumption or presence in the Republic of Serbia, a surcharge to the domestic retail price may be applied for any further use of regulated retail roaming services with the SIM card in question,.

The roaming surcharge shall not exceed the maximum average wholesale roaming charges (excluding VAT), which for regulated roaming calls made and received and regulated roaming SMS messages starting from 1<sup>st</sup> July 2021 shall not exceed 0.032 EUR per minute, i.e. EUR 0.01 per SMS message, and for a regulated roaming data service starting from 1<sup>st</sup> July 2021 shall not exceed EUR 0.0077 per megabyte of data transmitted, from 1<sup>st</sup> January 2022 shall not exceed EUR 0.006 per megabyte, from 1<sup>st</sup> January 2023 shall not exceed 0.0045 EUR per megabyte, from 1<sup>st</sup> January 2024 shall not exceed 0.0035 EUR per megabyte, from 1<sup>st</sup> January 2025 shall not exceed 0.003 EURR per megabyte and from 1<sup>st</sup> January 2026 shall not exceed 0.0025 EUR per megabyte.

The sum of the domestic retail price and the maximum roaming surcharge shall not exceed the maximum retail price for regulated roaming services (excluding VAT), which for regulated roaming calls made, regulated roaming SMS messages and regulated roaming data services, shall not exceed from July 1 2021 0.19 EUR per minute, 0.06 EUR per SMS message and 0.18 EUR per megabyte.

The charge for regulated roaming calls received shall not exceed 0.016 EUR per minute (excluding VAT).

The roaming service provider shall cease to apply the surcharge as soon as the customer's usage no longer indicates a risk of abusive or anomalous use of the regulated retail roaming services based on the objective indicators referred to in Article 4, para. 5-11 hereof.

Exceptionally from para. 3-5. and 9 herein, the roaming service provider is allowed to apply a roaming surcharge on the further use of the roaming data service, calculated in the manner specified in Article 4, para. 2 and 4 hereof, charge a roaming surcharge immediately after the roaming data allowance is exhausted.

If the roaming service provider, i.e. the operator of the public mobile communication network, establishes that SIM cards have been the subject of organized resale to persons who neither have a permanent or temporary residence in the Republic of Serbia nor have stable links entailing frequent and substantial presence in the Republic of Serbia to enable consumption of regulated retail roaming services other than for the purpose of periodical travels to the visited economies in the Western Balkans, the operator shall notify to the Agency the evidence characterising the systemic abuse in question and measures taken to ensure compliance with all conditions of the underlying contract at the least at the same time as such measures are taken.

### III. APPLICATION FOR AUTHORISATION TO APPLY A ROAMING SURCHARGE AND METHODOLOGY FOR ASSESSING THE SUSTAINABILITY OF THE ABOLITION OF RETAIL ROAMING SURCHARGES

#### **1. Application for authorisation to apply a roaming surcharge**

##### **Article 6**

In specific and exceptional circumstances, in order to ensure the sustainability of its domestic charging model, a roaming service provider may, if it is unable to recover the overall actual and projected costs of providing regulated retail roaming services from the overall actual and projected revenues of providing those services, submit to the Agency the application for authorisation to apply a roaming surcharge, which may be applied only to the extent necessary to recover the costs of providing regulated retail roaming services, taking into account the applicable maximum wholesale charges.

The application referred to in paragraph 1 herein shall mandatory include:

- 1) basic data on the roaming service provider as the applicant of the subject request, as follows: name i.e. business name, address, i.e. registered address, and e-mail address;

2) information on the reasons for its submission.

The roaming service provider shall submit to the Agency without delay the application referred to in paragraph 1 herein with all the necessary information prescribed in Article 7 hereof. In case of obtaining Agency's authorisation to apply the roaming surcharge, the roaming service provider is obliged to update this data over each period of 12 months and submit it to the Agency without delay.

Upon receipt of the application referred to in paragraph 1 herein, the Agency shall assess whether the roaming provider is unable to recover its costs in accordance with paragraph 1 herein, which would have a negative effect on the sustainability of its domestic charging model.

The assessment of the sustainability of the domestic charging model is based on the relevant objective factors specific to the roaming provider, including objective discrepancies between different roaming providers and the level of domestic prices and revenues.

The Agency shall, in accordance with the law governing the general administrative procedure, authorise the application of the roaming surcharge, if the conditions are met, within 30 days from the date of receipt of a proper application referred to in paragraph 1 herein.

The Agency shall adopt a decision to authorise, amend or refuse the application for authorisation to apply the roaming surcharge.

## **2. Data supporting the application for authorisation to apply a roaming surcharge**

### **Article 7**

The application for authorisation to apply a roaming surcharge, filed by a roaming service provider in order to ensure the sustainability of its domestic charging model, shall be assessed on the basis of the analysis of data on the overall volumes of regulated retail roaming services over a period of 12 months starting from 1<sup>st</sup> July 2021. The stated data on the overall volume of regulated retail roaming services shall be submitted by the roaming service provider to the Agency when submitting the first application for authorisation to apply the roaming surcharge, and the volume projections shall be estimated using one or a combination of the following options:

- 1) the actual volumes of regulated retail roaming services, provided by the applicant at the applicable regulated retail price prior to 1<sup>st</sup> July 2021;
- 2) projected volumes of regulated retail roaming services after 1<sup>st</sup> July 2021, where the projected volumes of regulated retail roaming services over the period in question are estimated based on actual domestic retail consumption of mobile services and the time spent in the Western Balkans region by the roaming customers of the applicant;
- 3) projected volumes of regulated retail roaming services after 1<sup>st</sup> July 2021, where the volumes of regulated retail roaming services are estimated based on the proportional change in the volumes of regulated retail roaming services experienced in the applicant's tariff plans representing a substantial part of the customer base on which the prices of regulated retail roaming services were set by the applicant at the domestic level for a period of at least 30 days, in accordance with the methodology set out in Annex 1 hereof.

In the event of updates to the application being submitted pursuant to the paragraph 1 herein, the projected overall volumes of regulated roaming services shall be updated on the basis of the actual average pattern of consumption of domestic mobile services multiplied by the observed number of roaming customers and the time they have spent in the visited economies in the Western Balkan region in the previous 12 months.

Any data on the applicant's costs and revenues for the application for authorisation to apply a roaming surcharge shall be based on the financial reports available to the Agency and may be adjusted according to volume estimates pursuant to paragraph 1 herein.

Where costs are projected, deviations from the figures resulting from past financial reports shall be considered only if supported by proof of financial commitments for the period covered by the projections.

The applicant referred to in paragraph 1 herein shall provide all necessary data used to determine the mobile services margin and the overall actual and projected costs and revenues of providing regulated roaming services over the relevant period.

### **3. Determination of roaming-specific costs for the provision of regulated retail roaming services**

#### **Article 8**

For the purposes of establishing that the applicant is unable to recover its costs, with the effect that the sustainability of its domestic charging system would be undermined, only the following roaming-specific costs shall be taken into consideration, if substantiated in the application for authorisation to apply a roaming surcharge:

- 1) the costs for the purchase of wholesale roaming access;
- 2) The roaming-specific retail costs.

With regard to costs incurred for the purchase of regulated wholesale roaming services, only the amount by which the applicant's overall payments referred to in paragraph 1 herein to counterparts providing such services in the Western Balkans region is expected to exceed the overall sums due to it for the provision of the same services to the other roaming providers in the Western Balkans region.

With regard to the sums due to the roaming provider for the provision of regulated wholesale roaming services, the roaming provider shall assume projected volumes of those wholesale roaming services that are consistent with the assumption underlying its projected volumes referred to in Article 7 paragraph 1 hereof Rulebook.

With regard to the roaming-specific retail costs, only the following costs shall be taken into account, if substantiated in the application referred to in paragraph 1 herein, as follows:

- 1) the costs of operating and management roaming activities, including all business intelligence systems and software dedicated to roaming operation and management;



2) data-clearing and payment costs, including both data-clearing and financial clearing costs;  
3) contract negotiating and agreement costs, including external fees and use of internal resources;  
4) costs sustained in order to comply with the requirements for the provision of regulated retail roaming services, taking into account the applicable fair use policy adopted by the roaming provider which relate to the obligations of:

- (1) informing roaming customers of the charges for regulated roaming calls, sending regulated roaming SMS messages and use of regulated roaming data services in the Western Balkans region they are subject to, and to provide roaming customers upon entering the Western Balkans region territory, except the territory of the Republic of Serbia as the territory of domestic network operator, automatic, via message, without undue delay and free of charge, basic personalized pricing information (including VAT) that apply to regulated roaming calls made and receive, regulated roaming SMS sent and use of regulated data roaming service in the Western Balkans region, unless the roaming customers have notified the roaming provider that they do not request this service;
- (2) informing the customer, before the conclusion of the contract and on a regular basis thereafter, of the risk of automatic and uncontrolled switching on of the data roaming service and downloading of data in roaming and notify the customer, free of charge and in a clear and easily understandable manner, how to switch off the automatic data roaming connections in order to avoid uncontrolled consumption of data roaming in the Western Balkans region;
- (3) make available one or more maximum financial limits for specified periods of use of the regulated data roaming service in the Western Balkans region provided that the roaming customer is informed in advance of the corresponding volume amounts;
- (4) taking reasonable steps to protect customers from paying tariffs for regulated roaming services in the Western Balkans for inadvertent access to regulated roaming services while in the Republic of Serbia, including informing the customers about the ways to avoid unintentional use of roaming in border areas.

The costs listed in paragraph 4, points 1) to 3) herein, shall be taken into account only in proportion to the ratio of overall traffic volume of the applicant's regulated retail roaming services referred to in paragraph 1 herein to the overall retail outgoing and wholesale inbound traffic of its roaming services, in accordance with the methodology set out in points 1) and 2) of Annex 2 hereof and in proportion to the ratio of the overall amount of traffic of its retail roaming services in the Western Balkans region to the overall traffic of its retail roaming services within and outside the Western Balkans region, in accordance with the methodology set out in points 1) and 3) of Annex 2.

The costs referred to in paragraph 4, point 4) herein shall be taken into account only in proportion to the overall traffic volume of the applicant's regulated retail roaming services referred to in paragraph 1 herein within the Western Balkans region to the overall traffic of its retail roaming services within and outside the Western Balkans region, in accordance with the methodology set out in points 1) and 3) of Annex 2 hereof.

#### **4. Allocation of retail joint and common costs to the provision of regulated retail roaming services**

##### **Article 9**

In addition to the costs determined pursuant to Article 8 hereof, a proportion of joint and common costs incurred for the provision of mobile retail services in general may be included in the application for authorisation to apply a roaming surcharge, taking into account the following costs, if substantiated in the application:

- 1) billing and collection costs, including all costs associated with processing, calculating, producing and notifying the actual customer bill;
- 2) sales and distribution costs, including the costs of operating shops and other distribution channels for the sale of mobile retail services;
- 3) customer care costs, including the cost of operating all customer care services available to the end user;
- 4) bad debt management costs, including costs incurred in writing off customers' unredeemable debt and collecting bad debts;
- 5) marketing costs, including all expenses for advertising mobile services.

The costs referred to in paragraph 1 herein, if substantiated in the application referred to in paragraph 1 herein, shall be taken into account only in proportion to the ratio of overall traffic of the applicant's retail roaming services within the Western Balkans region to the overall retail traffic of all mobile retail services, obtained as a weighted average of that ratio per mobile service, with weights reflecting the respective average wholesale roaming prices, which the applicant referred to in paragraph 1 herein paid in accordance with the methodology set out in points 1) and 4) of Annex 2 hereof.

#### **5. Determination of revenues from the provision of regulated retail roaming services**

##### **Article 10**

For the purposes of establishing that the applicant is unable to recover its costs, , with the effect that the sustainability of its domestic charging system would be undermined, only the following revenues shall be taken into account and included in this application for the authorisation to apply a roaming surcharge, as follows:

- 1) revenues deriving directly from traffic of mobile retail services originated in a visited economy in the Western Balkans region;
- 2) a proportion of overall revenues from the sale of mobile retail services based on fixed periodic charges.

Revenues referred to in paragraph 1, point 1) herein shall include:

- 1) any retail charge levied for traffic exceeding any fair use policy applied by the roaming provider;

- 2) any revenues from alternative roaming tariffs offered by the roaming service provider, which are different from the prices of regulated retail roaming services and which the roaming customer should deliberately choose, and from which the customer will have benefits relative to the charges of regulated retail roaming services;
- 3) any domestic retail price billed on a per unit basis or in excess of fixed periodic charges for the provision of mobile retail services triggered by the use of mobile retail services in a visited economy in the Western Balkans region.

For the purpose of determining the revenues referred to in paragraph 1, point 2) herein, in the event of bundled sale of mobile retail services with other services or terminals, only revenues linked to the sale of mobile retail services shall be considered. Those revenues shall be determined by reference to the price applied to the separate sale of each component of the bundle, if available, or to the sale of such services with the same characteristics on a stand-alone basis.

In order to determine the proportion of overall revenues from the sale of mobile retail services linked to the provision of regulated retail roaming services, the methodology set out in points 1) and 5) of Annex 2 hereof shall be applied.

## **6. Assessment of the application for authorisation to apply a roaming surcharge**

### **Article 11**

When assessing the application for authorisation to apply a roaming surcharge filed by a roaming provider in order to ensure the sustainability of its domestic charging model, the Agency may conclude that the applicant is unable to recover its costs of providing regulated retail roaming services, with the effect that the sustainability of its domestic charging model would be undermined, only where the negative roaming retail net margin of the applicant is equivalent to 3% or more of its mobile services margin.

The retail net margin shall be the amount remaining after the costs of providing regulated retail roaming services are deducted from the revenues from providing such services, as determined by this Rulebook, and the Agency shall review the data provided in the application referred to in paragraph 1 herein to ensure compliance with the methodology for determining costs and revenues, as laid down in Art. 8, 9 and 10 hereof.

Where the absolute value of the roaming retail net margin is equivalent to 3% or more of the mobile services margin, the Agency shall nevertheless refuse the roaming surcharge where it can establish the specific circumstances make it unlikely that the sustainability of its domestic charging model would be undermined, and such circumstances include the following situations:

- 1) the applicant referred to in paragraph 1 herein is part of a group and there is evidence of internal transfer pricing in favour of other subsidiaries of the group within the Western Balkans region, in particular in view of substantive imbalance of wholesale roaming charges applied within the group;

- 2) the degree of competition on domestic markets means that there is capacity to absorb reduced margins;
- 3) application of a more restrictive fair use policy, still in compliance with Art. 3 and 4 hereof, would reduce the roaming retail net margin to a proportion of less than 3%.

In the exceptional circumstances where the applicant referred to in paragraph 1 hereof has a negative mobile margin and a negative roaming retail net margin, the Agency shall authorise the application of a roaming surcharge on regulated roaming services.

When authorising the roaming surcharge, the Agency's decision shall identify the amount of the ascertained negative retail roaming margin that may be recovered through the application of a retail surcharge on a roaming services provided within the Western Balkans region.

The roaming surcharge shall be consistent with the roaming traffic assumptions underpinning the assessment of the application referred to in paragraph 1 herein and be set in accordance with the principles prescribed by the law governing the field of electronic communications.

#### IV FINAL PROVISION

##### **Article 12**

This Rulebook shall enter into force on the eighth day following its publication in the Official Gazette of the Republic of Serbia.

**Chairman  
of the Management Board**

*Dragan Kovačević*

Number: 1-03-3400-5/21-2  
In Belgrade, on 28<sup>th</sup> April 2021

## Annex 1

Proportional change in actual volumes of regulated roaming services in the Western Balkans region under the charging method “roam-like-at-home” compared with the same period in the previous year:

$$\left( \frac{\sum_1^n \text{volume}_k(t)}{\sum_1^n \text{volume}_k(t-1)} - 1 \right) \times 100$$

where:

k = service (1 = voice, 2 = SMS, 3 = data);

n is the number of days of “roam-like-at-home” application ( $n \geq 30$ );

t is the year of the first “roam-like-at-home” application.

This percentage should be used to estimate the change in volumes over the projected 12-month period by multiplying it by the volumes in the previous year.

1) Weights ( $w_k$ ) of mobile retail services:

$$w_k = \frac{\text{average wholesale roaming price paid by the operator}_{ki}}{\sum_{k=1}^3 \text{the average wholesale roaming price paid by the operator}_k}$$

where:

k = service (1 = voice, 2 = SMS, 3 = data);

“average wholesale roaming price paid by the operator” refers to the average unit price for unbalanced traffic paid by the operator for each service, where the unit for each service is the eurocent per (i) minute of voice; (ii) SMS to SMS; and (iii) MB for data;

2) Ratio of overall volume of applicant’s retail roaming services to overall retail outbound and wholesale inbound traffic of its roaming services:

$$\frac{\text{retail outbound roaming traffic}}{(\text{retail outbound} + \text{wholesale inbound}) \text{ roaming traffic}} = \sum_{k=1}^3 w_k \times \frac{\text{retail outbound roaming traffic}_k}{(\text{retail outbound} + \text{wholesale inbound}) \text{ roaming traffic}_k}$$

where:

k = service (1 = voice, 2 = SMS, 3 = data);

3) Ratio of overall traffic volume of the applicant’s retail roaming services in the economies of the Western Balkans region to overall traffic of its retail roaming services in the economies of the Western Balkans region and other countries:

$$\frac{\text{retail outbound roaming traffic in WB economies}^1}{\text{retail outbound roaming traffic (WB economies} + \text{countries that are not in WB)}} = \sum_{k=1}^3 w_k \times \frac{\text{retail outbound roaming traffic in WB economies}_k}{\text{retail outbound roaming traffic (WB economies} + \text{countries that are not in WB)}_k}$$

where:

k = service (1 = voice, 2 = SMS, 3 = data);

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<sup>1</sup> WB - Western Balkans region

- 4) Ratio of overall traffic of the applicant's retail roaming services in the economies of the Western Balkans region to overall retail traffic of all mobile retail services:

$$\frac{\text{retail outbound roaming traffic in the economies in WB}}{\text{retail outbound roaming traffic (economies in WB + countries that are not in WB) + retail domestic traffic}}$$

$$= \sum_{k=1}^3 w_k \times \frac{\text{retail outbound roaming traffic in the economies in WB}_k}{\text{retail outbound roaming traffic. (economies in WB + countries that are not in WB)}_k + \text{retail domestic traffic}_k}$$

where:

k = service (1 = voice, 2 = SMS, 3 = data);

- 5) Retail roaming revenue in the economies of the Western Balkans region:

$$\text{retail roaming revenue in WB economies} = \text{mobile retail services revenue} \times$$

$$\left( \sum_{k=1}^3 w_k \times \frac{\text{retail outbound roaming traffic in WB economies}_k}{\text{retail outbound roaming traffic (WB economies + countries that are not in WB)}_k + \text{retail domestic traffic}_k} \right)$$

where:

k = service (1 = voice, 2 = SMS, 3 = data);