



Commission for
Communications Regulation

Information Notice

Information Notice

Reference: ComReg 12/07

Version: Final

Date: 13/02/2012

An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

Abbey Court Irish Life Centre Lower Abbey Street Dublin 1 Ireland

Telephone +353 1 804 9600 Fax +353 1 804 9680 Email info@comreg.ie Web www.comreg.ie

Information Note

High Court Commercial Record No: 2011/405MCA: *Commission for Communications Regulation v Vodafone Ireland Limited*

Under Regulation EC No 544/2009 ("the Roaming Regulation") mobile operators were required by 1 July 2010 to automatically apply a data roaming spend cap of €50.00 (excluding VAT) €61.50 (including VAT) ("the Default Spend Cap") to all data roaming customers who had not chosen to opt out of a data cap, or who had not opted for another data cap, if offered, by that date. The Default Spend Cap was required to be put in place by mobile operators in order to counteract "bill shock". Spend caps allow consumers to monitor their expenditure on data usage when roaming abroad and give them the option of limiting their expenditure on data usage should they so wish.

The Commission is required and empowered to supervise and enforce the provisions of the Roaming Regulation in Ireland.¹ Following a detailed investigation, the Commission found that Vodafone Ireland Limited ("Vodafone") had not complied with the relevant provisions of the Roaming Regulation.

On 9 December 2011, the Commission commenced High Court proceedings against Vodafone in order to obtain orders of compliance against it.

The above proceedings have now been settled. The fact of this settlement was mentioned to the High Court today.

Pursuant to this settlement, Vodafone consented to pay the Commission the sum of €400,000.00, by way of a Court ordered financial penalty. The Court made this order against Vodafone today.

Vodafone has also agreed to do as follows:

1. No later than 22 February 2012, to apply the Default Spend Cap to its customers on data roaming plans who have not opted, by 21 February 2012, for an alternative financial limit. New customers on data roaming plans will have the Default Spend Cap applied to their accounts, but customers will also have the right to opt for any other financial limit offered by Vodafone, or no financial limit.
2. To apply the Default Spend Cap to the accounts of its customers on data roaming plans who choose to exercise their rights to avail of it, free of charge and without penalty.

¹ See the Communications (Mobile Telephone Roaming) Regulations 2007 as amended by the Communications (Mobile Telephone Roaming) (Amendment) Regulations 2010.

3. To amend the terms and conditions in its contracts purporting to restrict the rights of its customers on data roaming plans to move from one financial limit to another, and to insert a term in its relevant written contracts to the effect that when a customer requests to opt for or remove a financial or a volume limit facility that they can do so within one working day, free of charge, without any conditions or restrictions pertaining to other elements of their subscription.
4. To amend and maintain a new page or pages on its website in a prominent and easily accessible manner which sets out in simple and comprehensive terms the rights of its customers under the Roaming Regulation with respect to data roaming.
5. To resolve any issues that are or have been raised by customers in respect of billed amounts for data roaming between March 1 2010 and 22 February 2012 (which may have been affected by Vodafone's incorrect implementation of the Default Spend Cap), to the reasonable satisfaction of the customer, having paid financial compensation where appropriate.
6. To pay the Commission its legal costs in relation to the High Court proceedings.

Information for consumers

Vodafone may contact its customers on data roaming plans in connection with the Default Spend Cap in the coming days.

From 22 February 2012, Vodafone will apply the Default Spend Cap to its customers on data roaming plans that have not opted, by 21 February 2012, for another limit, if offered, or no limit, should they wish. New customers on data roaming plans will also have the Default Spend Cap applied to their accounts if they have not opted for another limit, if offered, or no limit, should they wish.

Vodafone will resolve any issues that are or have been raised by customers in respect of billed amounts for data roaming between March 1 2010 and 22 February 2012 (which may have been affected by Vodafone's incorrect implementation of the Default Spend Cap), to the reasonable satisfaction of the customer, having paid financial compensation where appropriate.

In accordance with ComReg's procedure for complaint handling, consumers should contact ComReg in respect of complaints to their operator which have not been responded to or resolved within 10 working days. ComReg's Consumer Line contact details are below.

Consumers who intend to use a data roaming service may contact their mobile operator to confirm what cap is currently being applied to their account and to change their preference, should they wish.

How does the Default Spend Cap work?

The Default Spend Cap is a measure introduced to protect consumers from "Bill Shock" in relation to data usage on their mobile handset/device while travelling in the European Union.

From 1 July 2010 all data roaming customers who have not chosen an alternative limit, if offered, or no limit, are automatically placed on the Default Spend Cap which is €50.00 (excluding VAT), €61.50 (including VAT).

In each billing period consumers will receive a warning message when their usage is near to and when they have reached the data roaming limit set for their account. Consumers cannot use any more data, for that billing period, when their limit has been reached, unless they give their consent to continue data roaming.

Consumers who have consented to continue data roaming may wish to contact their mobile operator to confirm, prior to using a data roaming service again, what cap is currently being applied to their account and to change their preference, should they wish.

ComReg's Consumer Line contact details

E-mail: Business issues: *Businessconsumers@comreg.ie*

All other consumer issues: *Consumerline@comreg.ie*

Call: Business issues at: 01 804 9707 / 1890 200035**

All other consumers issues 01 804 9668 / 1890 229668**

**Calls to 1890 numbers from landlines are charged at a local call rate, charges from mobile phones may vary depending on your mobile operator.
