Changes to legislation: *Commission Implementing Regulation (EU) 2016/2292 is up to date with all changes known to be in force on or before 28 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commission Implementing Regulation (EU) 2016/2292 of 16 December 2016 setting out the weighted average of maximum mobile termination rates across the Union and repealing Implementing Regulation (EU) 2015/2352 (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2016/2292

of 16 December 2016

setting out the weighted average of maximum mobile termination rates across the Union and repealing Implementing Regulation (EU) 2015/2352

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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[(1)], and in particular Article 6e(2) thereof,

Whereas:

(1) In accordance with Regulation (EU) No 531/2012, domestic providers should not levy any surcharge additional to the domestic retail price on roaming customers in any Member State, for any regulated roaming call received, within the limits allowed by fair use policy. This provision applies from 15 June 2017, provided that the legislative act to be adopted further to the proposal on the wholesale roaming market referred to in Article 19(2) of that Regulation has become applicable by that date.

(2) In accordance with Regulation (EU) No 531/2012 domestic providers may apply a surcharge, in addition to the domestic retail price, for the consumption of regulated retail roaming services, during a transitional period from 30 April 2016 until the date when the legislative act envisaged in Article 19(2) of that Regulation becomes applicable.

(3) Regulation (EU) No 531/2012 allows domestic providers to apply, after the transitional period, a surcharge, in addition to the domestic retail price, for the consumption of regulated retail roaming services in excess of any limit set under a fair use policy.

(4) Regulation (EU) No 531/2012 limits any surcharge applied for receiving regulated roaming calls to the weighted average of maximum mobile termination rates across the Union.

(5) Commission Implementing Regulation (EU) 2015/2352[(2)] set out the weighted average of maximum mobile termination rates across the Union to be applied from 30 April 2016 on the basis of the values of the data of 1 July 2015.

(6) The Body of European Regulators for Electronic Communications has provided the Commission with updated information gathered from Member States' national regulatory authorities concerning: (i) the maximum level of mobile termination rates

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they imposed, in accordance with Articles 7 and 16 of Directive 2002/21/EC of the European Parliament and of the Council[3] (the 'Framework Directive') and Article 13 of Directive 2002/19/EC of the European Parliament and of the Council[4] (the 'Access Directive'), in each national market for wholesale voice call termination on individual mobile networks; and (ii) the total number of subscribers in Member States.

(7) Pursuant to Regulation (EU) No 531/2012, the Commission has calculated the weighted average of the maximum mobile termination rates across the Union by: (i) multiplying the maximum mobile termination rate permitted in a given Member State by the total number of subscribers in that Member State; (ii) summing this product over all Member States; and (iii) dividing the total obtained by the total number of subscribers in all Member States, on the basis of the values of the data of 1 July 2016. For non-Euro countries, the relevant exchange rate is the 2nd Quarter 2016 average obtained from the European Central Bank's database.

(8) It is therefore necessary to update the value of the weighted average of maximum mobile termination rates across the Union laid down in the Implementing Regulation (EU) 2015/2352.

(9) Implementing Regulation (EU) 2015/2352 should therefore be repealed.

(10) Pursuant to Regulation (EU) No 531/2012 the Commission is to review the weighted average of maximum mobile termination rates across the Union annually.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Communications Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The weighted average of maximum mobile termination rates across the Union is set out at EUR 0,0108 per minute.

Article 2

Implementing Regulation (EU) 2015/2352 is repealed.

Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 December 2016.

For the Commission

The President

Jean-Claude JUNCKER