



Ofcom Consultation: Mobile roaming – strengthening customer protections

THE CONSUMER COUNCIL RESPONSE

20 September 2023

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1. EXECUTIVE SUMMARY

The Consumer Council welcomes the opportunity to respond to the Ofcom Mobile roaming: Strengthening customer protections consultation.

Northern Ireland (NI) consumers are particularly affected by mobile roaming due to being the only region of the UK with a European Union (EU) land border. Mobile roaming protections are of particular importance within NI as our consumers are much more likely to experience inadvertent/unintended roaming onto Republic of Ireland (ROI) networks.

In January 2023 the Consumer Council for Northern Ireland embarked on a research project entitled 'Mobile roaming experiences of Northern Ireland Consumers' which consisted of:

- An online survey of 1,000 NI residents. Quota controls based on official population estimates were employed throughout survey fieldwork and corrective rim weighting was applied during data analysis to ensure that the final sample was representative of the NI population in terms of age, sex, socio-economic group and area.
- Three focus groups (each containing 6-8 participants) were conducted dedicated to each of the following: NI consumers (general), NI consumers who live in border regions, and NI consumers who had travelled to Europe in the previous 12 months.

The aim of the research project was to:

- investigate the breadth and depth of the issues that consumers are experiencing as a result of the reintroduction of mobile roaming charges;
- test attitudes to consumer protections that are no longer mandatory, such as roaming welcome messages, daily roaming alerts and monthly caps; and
- focus on the experiences of NI consumers who had travelled or experienced roaming while in Northern Ireland.

We have used this research as an evidence base for our response to this consultation.

We welcome Ofcom's consultation to formalise mobile roaming protections for consumers. While the majority of mobile phone providers have continued to send roaming alerts to their customers on a voluntary basis, we agree that regulatory protections should be formalised to reduce potential harms. This is of particular importance in NI where roaming is a regular and unavoidable experience for many consumers on a daily basis.

The Consumer Council believe it is essential to to bridge the gap left behind by the sunseting of the EU Roaming Regulation and protections are in place to ensure mobile roaming whether at home or abroad does not cause increasing consumer detriment.

2. ABOUT US

The Consumer Council is a non-departmental public body (NDPB) established through the General Consumer Council (Northern Ireland) Order (The Order) 1984. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland (NI).

We are an insight-led evidence based organisation:

- Providing consumers with expert advice and confidential guidance.
- Engaging with government, regulators and consumer bodies to influence public policy.
- Empowering consumers with the information and tools to build confidence and knowledge.
- Investigating and resolving consumer complaints under statutory and non-statutory functions.
- Undertaking best practice research to identify and quantify emerging risks to consumers.
- Campaigning for market reform as an advocate for consumer choice and protection.

We have specific statutory duties in relation to energy, postal services, transport, water and sewerage, and food affordability and accessibility. These include considering consumer complaints and enquiries, carrying out research, and educating and informing consumers.

Our non-statutory functions educate and empower consumers against unfair or discriminatory practices in any market from financial services to private parking charge notices.

Our interpretation of The Order gives us powers to tackle financial exclusion in Northern Ireland by working with The Executive, UK Government and regulators to influence policy and empower consumers through education and increased awareness.

Across all our areas of work, we pay particular regard to consumers:

- who are disabled or chronically sick;
- who are of pensionable age;
- who are on low incomes; and
- who live in rural areas.

We use a set of eight guiding principles (Figure 1) developed by the United Nations to:

- assess where the consumer interest lies; and
- develop and communicate our policies, interventions and support.

These provide an agreed framework through which we approach regulatory and policy work.

Figure 1: Consumer Principles



The principles ensure we apply a consistent approach across our statutory and non-statutory functions, and in all our engagement with consumers and stakeholders.

They serve and protect consumers and set out the minimum standards expected from markets when delivering products or services, including in digital markets, in Northern Ireland. They also frame our policy position and approach to resolving consumer disputes with industry, offering a straightforward checklist to analyse and validate outcomes, in particular amongst vulnerable groups.

3. RESPONSE TO CONSULTATION QUESTIONS

Question 1: Do you agree with our proposals to introduce rules and accompanying guidance requiring providers to send customers roaming alerts that include information on roaming charges, mobile bill limits and where to access more information?

Response - Is this response confidential? – N

The Consumer Council supports Ofcom proposals to introduce new roaming requirements by amending GC C3 and believe targeted regulation is both appropriate and proportionate to protect the interests of customers, particularly in Northern Ireland.

We agree that:

- Roaming alerts need to be timely and contain personalised information on if/what customers will be charged
- To help customers avoid unexpected bills, roaming alerts need to contain personalised information on mobile bill limits
- Roaming alerts must signpost customers to where they can find more information about roaming charges, fair use limits and how to monitor and limit spend

Northern Ireland Consumer Context

Northern Ireland (NI) consumers differ compared to the rest of the UKingdom (UK).

- 36% of our consumers live in rural areas, more than double that of England (17.1%) or Scotland (17%). [1]
- Northern Ireland has the highest rate of economic inactivity in the UK (26.6% vs 20.9%). [2]
- Higher rates of consumer vulnerability compared to the UK (50% vs 47%) [3] and lowest earning citizens are more reliant on social securities (74% vs 60%). [4]
- Almost double the number of Disability & Carer's Benefits claimants compared to the UK (c20% vs c11%). [5]
- Average household income is 14.3% lower than the UK (£54k vs £63k) and we have more households on <£15k per year (22% vs 17%). [3]
- Our average weekly discretionary household income is 54.3% lower than the UK average (£95 vs £208). [6]
- 11% of Northern Ireland adults have 'no savings or investments' compared to 10% of UK adults. [3]

[1] NI: Northern Ireland Statistics and Research Agency (NISRA), NI: In Profile, November 2022. England: Department for Environment, Food and Rural Affairs (Defra), Rural population and migration, October 2021. Scotland: Scottish Government, Rural Scotland Key Facts 2021, February 2021.

[2] National Online Manpower Information System (NOMIS), Labour Supply, Apr-Jun 2023.

[3] Financial Conduct Authority (FCA), Financial Lives May 2022 survey: selected results by nation of the UK, July 2023.

[4] Consumer Council, Northern Ireland Household Expenditure Tracker for Q1 2023, September 2023

[5] Disability & Carer's Benefits consist of: Personal Independence Payment, Disability Living Allowance, Carer's Allowance and Attendance Allowance. These percentages are based on the ONS UK population mid-year estimate of 67,026,300 (released: 21 December 2022) and the ONS NI population mid-year estimate of 1,904,600 (released: 21 December 2022), NI: NISRA and Department for Communities, Northern Ireland Benefits Statistics Summary, February 2023, UK: Department for Work and Pensions, DWP benefits statistics, August 2023.

[6] Asda, Asda Income Tracker for Q2 2023, June 2023

Northern Ireland consumers are unable to absorb any additional costs or reduced choice, particularly in the current economic environment of general affordability concerns, cost of living and inflationary pressures. The Consumer Council believes that mobile roaming regulatory protections must help

consumers make informed choices about mobile roaming and reduce unexpected charges which many Northern Ireland consumers would find difficult to pay.

Northern Ireland mobile usage and contracts

Our research tells us that 99% of Northern Ireland consumers use a mobile phone with 77% having a monthly contract and 22% using pay as you go. Due to the high proportion of consumers using pay as you go we want to ensure the same level of roaming protections are provided regardless of contract type. Many of our most vulnerable consumers use pay as you go mobile options which they top up. The regulations must take these contract types into account to ensure roaming protections are extended to all mobile users. This is of particular importance in Northern Ireland where unintended roaming is a regular occurrence for consumers.

Mobile Affordability

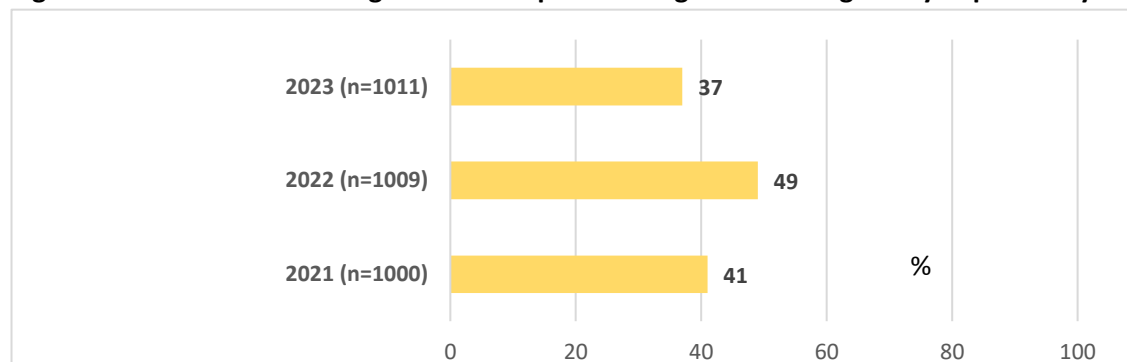
The affordability of mobile contracts is already a concern for many Northern Ireland consumers. Lower income and vulnerable consumers are much more likely to be impacted by mobile affordability and regulatory protections must reduce the impact of mobile roaming to already struggling consumers.

- Almost one in five (17%) respondents felt that their mobile phone plan was unaffordable relative to their income with those from the lower socio-economic group (C2DE: 22%) twice as likely as those from a more affluent background (ABC1: 11%) to have felt their mobile phone plan was unaffordable.
- 11% of consumers reported struggling to pay their phone bill in the last 12 months with those from the lower socio-economic group (C2DE: 14%) twice as likely to have struggled than those from a more affluent background (ABC1: 7%).
- Nearly three in five (55%) of those who struggled had to make cuts elsewhere in order to pay their bill, whilst about a fifth (22%) missed a payment.

EU Exit and mobile roaming

Northern Ireland consumers have been concerned about the impact of mobile roaming since our exit from the EU. In our annual EU Exit Impacts and Perceptions research currently 37% of respondents believe that mobile phone charges will be negatively impacted by EU Exit (Figure 2). This is an improving picture however it is due to the current decision by the majority of mobile operators to waive roaming charges between NI and ROI. Any reintroduction of these charges will immediately impact Northern Ireland consumers negatively.

Figure 2: Consumers believing that mobile phone charges will be negatively impacted by EU Exit



NI Consumer experience of roaming charges - Travel outside the UK

COVID-19 and the related travel restrictions mean that 2022-23 was the first time many consumers had the opportunity to travel outside the UK. Our research project 'Mobile roaming experiences of Northern Ireland Consumers' looked at the frequency of travel outside the UK including ROI.

- At the time of this research almost half (48%) of respondents had travelled outside the UK in the last 12 months with 46% planning to travel outside the UK in the next 6 months.
- Amongst those who had travelled outside the UK in the last 12 months, almost nine in ten (88%) had used a mobile phone in ROI, the same number (88%) had done so in other EU/EEA.
- Those who had used a mobile phone in ROI had travelled there an average of 5.73 times in the last 12 months, whilst those who had used a mobile in other EU/EEA countries had travelled there an average of 1.39 times. This demonstrates the unique circumstances of Northern Ireland consumers when considering roaming frequency.
- 9% of NI consumers received an unexpected charge when travelling outside the UK in the last 12 months.

The research demonstrated that a significant number of consumers are unaware of the implications of mobile roaming or how to get support.

- Almost a quarter (22%) of respondents had no knowledge regarding charges for using their phone within the EU/EEA.
- When we asked consumers why they did not take action before travelling outside the UK one in ten (10%) stated that they did not know where to look or who to ask about mobile roaming.

Voluntary roaming protections

There was a high level of awareness, usage and positive sentiment towards roaming alerts and protections, including data caps and messages when roaming commences.

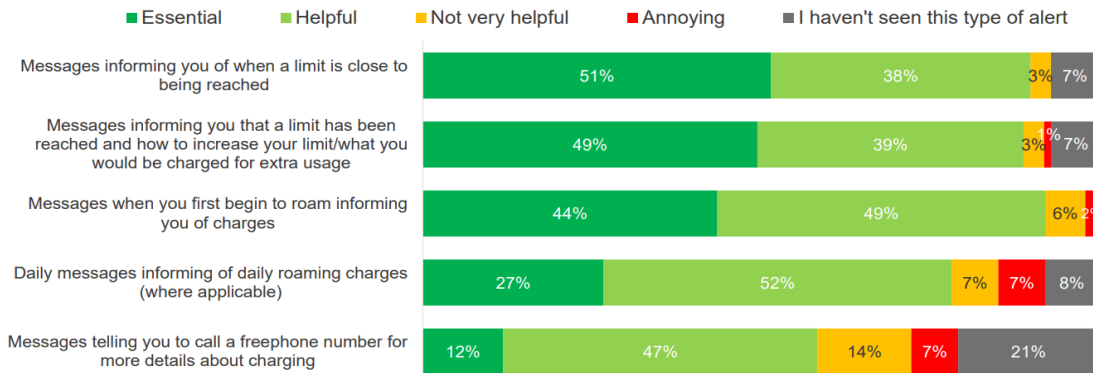
- Over nine in ten (91%) respondents were aware of mobile roaming alerts, with nearly three quarters (74%) also reading them.

As demonstrated in Figure 3 below, the majority of respondents rated various types of mobile roaming alerts as essential or helpful.

Figure 3. Consumer sentiment toward mobile roaming alerts

Feelings towards mobile roaming alerts

The majority of respondents felt positively towards the various types of mobile roaming alerts, rating them as either essential or helpful. Awareness of messages regarding a freephone number to call for details about charging was notably lower when compared to the other types of alerts.



Q. How do you feel about receiving the following types of mobile roaming alert ... ?
Base: all who had used a mobile phone outside the UK in the 12 months prior to the research who were aware of mobile roaming alerts (n=464)

In more detailed discussions with focus groups as part of this research consumers felt the provision of such notifications were considered responsible behaviour on behalf of providers as it helped to reduce the risk of customers receiving an unexpected bill, which they may not be able to afford.

Consumer quote:

- *'They will catch people out if there are no messages sent.'*

(Respondent who had travelled to Europe recently)

Mobile roaming alerts drive consumer behaviour

- Nearly nine in ten (86%) respondents who had travelled in the 12 months prior to the research were influenced by the information they had received in mobile roaming alerts.
- Actions taken as a result included using less data (45%), switching off data roaming (36%) and only using their phone when connected to Wi-Fi (32%).

Awareness of consumer protection and consumer attitudes

In addition to mobile roaming alerts we asked consumers about their awareness and attitude to other mobile roaming protections. Consumers were much less familiar with these but the majority of consumers felt added protections were essential or helpful.

- While 31% of respondents were aware of a data roaming cap, only 12% were aware that the limit is £45 (excluding VAT).
- Around two in five did not know that a personal spend limit could be set (in the UK: 36%; outside the UK: 43%)
- In the focus groups there was consensus that a spending cap on roaming in the EU is useful, but £45 (excluding VAT) was considered by many to be too high.
- When asked about 80% and 100% data roaming cap notifications, 96% of consumers felt these notifications were either essential or helpful.
- Seven in ten (70%) respondents stated that they would find a spend limit that could be adjusted to their needs to be helpful.

The Consumer Council is encouraged that the proposals from Ofcom include explicit details on what must be included in roaming alerts to allow consumers to make informed decisions including:

- personalised information on roaming charges (including specifying any fair use data limits and the time period that apply to any daily charges);
- personalised information on mobile bill limits (if the customer has one and what it is set at) and inform customers how to put one in place or amend it; and
- where to find free to access, clear, comprehensible and accurate additional information on roaming.

Our research demonstrates that the majority of consumers are not aware of fair use limits, spend limits and data caps but the majority felt these notifications would be either essential or helpful.

We welcome Ofcom's proposal to ensure notifications include information about how customers can set a mobile bill limit, any fair use data limit that applies in their case, and the time period that applies to any charges billed on the basis of time.

We would ask that Ofcom consider consumer testing roaming alert data and actions to ensure the alerts drive behaviour that protects consumers from roaming charges. In particular vulnerable consumers should be considered as part of the testing plan.

Question 2: Do you agree with our proposals to introduce rules and accompanying guidance requiring providers to (a) have and publish measures to enable customers to reduce and/or limit expenditure related to inadvertent roaming while in the UK and (b) provide information on how to avoid inadvertent roaming both in and outside of the UK?

Response - Is this response confidential? – N

The Consumer Council agrees with Ofcom's proposals to introduce rules and accompanying guidance requiring providers to (a) have and publish measures to enable customers to reduce and/or limit expenditure related to inadvertent roaming while in the UK and (b) provide information on how to avoid inadvertent roaming both in and outside of the UK.

The problem of inadvertent roaming is of particular importance for Northern Ireland consumers. Due to Northern Ireland's geographical location, consumers see roaming protections as vital and the current voluntary alerts have a high amount of influence on the activities undertaken by consumers as detailed in our response to Question 1.

Despite this, inadvertent/unintended roaming is an issue for NI consumers as detailed in our 'Mobile roaming experiences of Northern Ireland Consumers' research.

- 28% of NI consumers had experienced inadvertent/unintended roaming, with 22% of this roaming taking place on the NI/ROI border.
- Those living in border Local Government Districts (LGDs) (41%) were more likely than those living in non-border LGDs (18%) to have experienced inadvertent/unintended roaming.

- Around half (52%) of respondents stated that they have measures in place regarding roaming on to networks in ROI. Those living in border LGDs (57%) were more likely than those living in non-border LGDs (48%) to have stated that they have measures in place.
- 22% of NI consumers had experienced inadvertent/unintended roaming on the ROI/NI border, and 32% of those experienced consequences as a result with being charged additional fees by their provider (14%) and having their services restricted by their provider (9%) the most likely penalties.
- Nearly three in five (57%) respondents had taken some action to avoid inadvertent/unintended roaming, with almost half (46%) turning off the roaming capability on their phone.
- Those living in border LGDs (15%) were less likely than those living in non-border LGDs (34%) to turn off their roaming when they are near a border; however, they were more likely to always have their roaming turned off (border LGDs: 27%; non-border LGDs: 17%).

Many mobile providers were not charging for roaming between NI and ROI when this research took place. While the majority of mobile users in NI were not adversely affected day to day by roaming charges, some experienced negative consequences.

Our research demonstrates that the majority of consumers are not aware of fair use limits, spend limits and data caps but the majority felt these notifications would be either essential or helpful. Consumers main action to protect against unintended roaming was to switch off roaming, a solution which restricts both access and functionality of their phone. This is not a long term solution for Northern Ireland consumers.

While we agree that regulatory protections should be formalised to reduce potential harms, for Northern Ireland consumers the ultimate protection would be to ensure roaming charges are not charged for NI/ROI roaming. While this solution is outside the scope of this consultation there was strong feeling amongst focus group respondents that there should be no additional charges for NI consumers when travelling to ROI, or inadvertently roaming given the proximity and the nature of the relationship that exists between NI and ROI.

Consumer quotes:

- *'There should be no difference [between NI and ROI].'*

(Respondent from the general NI consumers group)

- *'We have the Good Friday Agreement, and we can get an Irish passport. It's a unique situation. There is integration so access should be the same.'*

(Respondent from the general NI consumers group)

We can see how consumers would benefit from the explicit details Ofcom have proposed in roaming alerts to allow them to make informed decisions Due to the prevalence or roaming experience in Northern Ireland, we would suggest Ofcom's final proposals are tested with consumers, and monitored to ensure they drive the right consumer behaviours and reduce consumer detriment.

Question 3: Do you agree with the proposed implementation period of 6 months from publication of the statement and changes to General Condition C3 and guidance?

Response - Is this response confidential? – N

The proposed implementation period of six months is based on giving providers the time to make the necessary changes to comply with the proposed rules.

The Consumer Council believe there should be an additional period set aside to test final proposals with consumers with a focus on the most vulnerable consumers to ensure the new regulations deliver the consumer protections they are intended to. And to test that the final proposals drive consumers to actions that protect them.

In addition Ofcom must monitor both compliance with these new regulations and consumer outcomes to ensure mobile users are benefitting. We would encourage a particular focus on Northern Ireland as the region with the highest potential for detriment.

4. CONCLUSION

We welcome Ofcom's proposal to strengthen mobile roaming regulatory protections, particularly in the area of inadvertent roaming and agree that consumers are at risk of harm without further regulatory protections. We fully support the aim of this consultation to ensure consumers have timely access to clear, comprehensible and accurate information about the charges they will face when roaming at the point they start roaming.

Northern Ireland consumers are some of the most vulnerable in the UK and are at most risk of mobile roaming detriment if protections are not formalised. We believe our research provides a robust evidence base to support Ofcom's proposals.

We believe that more consideration should be given to testing mobile alert texts with consumers or consumer representative bodies to ensure these drive consumer action and enhance protection. In addition consideration needs to be given to how these new regulations are communicated to the public, monitored and consumer outcomes measured to ensure success.

The Consumer Council welcomes Ofcom's commitment to put protections in place to ensure mobile roaming whether at home or abroad does not cause increasing consumer detriment.