

## **EU FAIR USE POLICY TERMS AND CONDITIONS**

### **EU Fair Use Policy**

The 'EU Roaming Regulation' (Regulation (EU) 2015/2120) permits operators to apply a fair use policy in accordance with the European Commission's Fair Use Regulation (Commission Implementing Regulation of 15.12.2016).

The following definitions shall apply for the purposes of this fair use policy:

1. The following terms have the same definition as provided for in Regulation (EU) No. 531/2012, as amended: (i) regulated roaming call; (ii) regulated roaming SMS message; (iii) regulated data roaming service; and (iv) domestic retail price.
2. 'Open data bundle' has the same definition as in Article 2 of the European Commission's Fair Use Regulation.
3. 'Regulated retail roaming service' means a regulated roaming call, regulated roaming SMS message or regulated data roaming service.

These terms and conditions may vary from time to time in line with the EU Roaming Regulation.

#### **1. Normal residence or stable links**

1.1 Three may reasonably request customers to provide proof of normal residence in the Republic of Ireland or proof of stable links entailing a frequent and substantial presence in the Republic of Ireland.

1.2 In the case of pre-paid tariff plans (as defined in the European Commission's Fair Use Regulation (Commission Implementing Regulation of 15.12.2016), as an alternative to section 1.1 above, Three may limit the consumption of data roaming retail services within the EU at the domestic retail price to the volumes equivalent to at least the volume obtained by dividing the overall amount, excluding VAT, of the remaining credit available and already paid by a customer to Three, at the moment of commencing roaming, by the prevailing regulated wholesale roaming charge referred to in Article 12 of Regulation (EU) No. 531/2012.

#### **2. Monitoring fair usage**

2.1 Three may monitor a customer's usage of Three's voice, SMS and data services over a cumulative four month period to establish whether consumption of Three's voice, SMS or data services in the Republic of Ireland constitutes more than 50% of the customer's consumption of Three's voice, SMS or data services over that cumulative four month period..

2.2 Three may monitor a customer's presence while consuming Three's voice, SMS or data services over a cumulative four month period to establish whether the customer was present in the Republic of Ireland for more than 50% of the time (measured in days) that the customer is consuming Three's voice, SMS or data services over that cumulative four month period.

2.3 Three may decide not to provide regulated retail roaming services at the domestic retail price to a customer where that customer's consumption of Three's voice, SMS or data services in the Republic of Ireland constitutes 50% or less of the customer's aggregate

consumption of Three's voice, SMS or data services over a cumulative four month period and if that customer's presence in Ireland over the cumulative four month period constitutes 50% or less of the time (measured in days) that the customer consumes Three's voice, SMS or data services over that cumulative four month period.

2.4 Three may decide not to provide regulated retail roaming services at the domestic retail price to customers using a specific SIM card where that SIM card has not been used or has virtually not been used over a four month period for making or receiving a call, sending an SMS or for data services in the Republic of Ireland in accordance with paragraph 37 of guidelines issued by BEREC (the Body of European Regulators for Electronic Communications) on 27 March 2017 (BEREC Guidelines on Regulation (EU) No 531/2012, as amended by Regulation (EU) 2015/2120 and Commission Implementing Regulation (EU) 2016/2286 (Retail Roaming Guidelines)).

2.5 Three may decide not to provide regulated retail roaming services at the domestic retail price to a customer that has subscribed to and sequentially used multiple SIM cards while roaming in accordance with Article 4 (4) sub-paragraph 7 of the European Commission's Fair Use Regulation.

2.6 Where Three detects that a customer's use of a SIM card allows Three not to provide regulated retail roaming services at the domestic retail price in line with sections 2.3 – 2.5 above, Three shall alert the customer about the detected behaviour indicating that the customer will be charged a surcharge pursuant to Article 6e of Regulation (EU) No 531/2012 for use of Three's regulated retail roaming services after the date of such alert unless the customer demonstrates actual consumption of Three's voice, data or text services in Ireland or actual domestic presence within two weeks of the alert.

2.7 For the purposes of sections 2.2 and 2.3 above, any day when a roaming customer has logged onto the Three network shall be counted as a day of domestic presence of that customer.

### **3. Organised resale**

Three may immediately take any necessary measures at wholesale or retail level to ensure compliance with a relevant customer contract when it detects that a number of SIM cards have been the object of organised resale to persons not effectively residing or having stable links in the Republic of Ireland for purposes other than periodic travel.

### **4. EU Roaming Data Allowance and Surcharge - Open Data Bundles**

4.1 Where applicable, your EU roaming data allowance is calculated in accordance with Regulation (EU) No 531/2012, as amended and prevailing data wholesale roaming caps from 15 June 2017. Article 4 (2) of the European Commission Fair Use Regulation provides: *"Without prejudice to any applicable domestic volume limit, in the case of an open data bundle, a roaming customer is able to consume when periodically travelling in the EU 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 regulated maximum wholesale roaming charge referred to in Article 12 of Regulation (EU) No 531/2012. In the event of bundled sale of mobile retail services with other services or terminals, the overall domestic retail price of the data bundle is determined by taking into account the price applied to the separate sale of the 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 a stand-alone basis". In accordance with paragraph 48 of guidelines issued by BEREC on 27 March 2017, your EU roaming data allowance may be calculated by reference to a SIM only offer equivalent to your handset plan.

By way of example:

The EU roaming data allowance for Three's 3 Classic Flex Max plan as at 1<sup>st</sup> January 2018 has been calculated by reference to Three's 3 Classic Flex Max SIM only plan. The overall domestic retail price of 3 Classic Flex Max SIM only, excluding VAT, is €22.76. This is divided by the prevailing data wholesale cap (€6.00 per GB from 1<sup>st</sup> January 2018) and multiplied by 2. This produces an EU roaming data allowance of 7.6 GB.

For details of your EU roaming data allowance, please see your plan terms at <http://www.three.ie/terms-conditions/business/>

4.2 When you exceed the EU roaming data allowance that applies to your plan, a surcharge will apply. For details of the surcharge, please see: Three's price guide at <http://www.three.ie/terms-conditions/business/>

4.3 Three will send a notification to you when your volume limit of data roaming service is fully consumed. This notification will indicate the surcharge that will be applied to any additional consumption of data roaming services by you. You have the right to require Three to stop sending such notifications and the right, at any time and free of charge, to require Three to provide the service again.

## 5. Advice of Charge

The Advice of Charge message that you receive when roaming in the EU will include information on this fair use policy and the surcharges which apply in excess of your volume limit.

## 6. Complaints

If you have a complaint in respect of this policy, please contact us on 1913. All complaints will be dealt with in line with our Code of Practice: <http://www.three.ie/explore/about-three/code-of-practice/>.