

Amendment 2**Michel Reimon**

on behalf of the Verts/ALE Group

Marisa Matias, Cornelia Ernst, Rina Ronja Kari, Curzio Maltese, Martina Michels, Matt Carthy, Sofia Sakorafa, Kostas Chrysogonos, Luke Ming Flanagan, Barbara Spinelli

on behalf of the GUE/NGL Group

Recommendation for second reading**A8-0300/2015****Pilar del Castillo Vera**European single market for electronic communications
10788/2/2015 – C8-0294/2015 – 2013/0309(COD)**Council position****Recital 3***Council position*

(3) The internet has developed over the past decades as an open platform for innovation with low access barriers for end-users, providers of content, applications and services and providers of internet access services. The existing regulatory framework aims to promote the ability of end-users to access and distribute information or run applications and services of their choice. However, a significant number of end-users are affected by traffic management practices which block or slow down specific applications or services. Those tendencies require common rules at the Union level to ensure the openness of the internet and to avoid fragmentation of the internal market resulting from measures adopted by individual Member States.

Amendment

(3) The internet has developed over the past decades as an open platform for innovation with low access barriers for end-users, providers of content, applications and services and providers of internet access services. ***The principle of ‘net neutrality’ in the open internet means that traffic should be treated equally, without discrimination, restriction or interference, independent of the sender, receiver, type, content, device, service or application. As stated in the European Parliament resolution of 17 November 2011 on the open internet and net neutrality in Europe, the internet's open character has been a key driver of competitiveness, economic growth, social development and innovation – which has led to spectacular levels of development in online applications, content and services – and thus of growth in the offer of, and demand for, content and services, and has made it a vitally important accelerator in the free circulation of knowledge, ideas and information, including in countries where access to independent media is limited.*** The existing regulatory framework aims to promote the ability of end-users to access and distribute information or run applications and services of their choice. However, a significant number of end-users are

affected by traffic management practices which block or slow down specific applications or services. Those tendencies require common rules at the Union level to ensure the openness of the internet and to avoid fragmentation of the internal market resulting from measures adopted by individual Member States.

Or. en

Amendment 3**Michel Reimon**

on behalf of the Verts/ALE Group

Marisa Matias, Cornelia Ernst, Rina Ronja Kari, Curzio Maltese, Martina Michels, Matt Carthy, Sofia Sakorafa, Kostas Chrysogonos, Luke Ming Flanagan

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European single market for electronic communications

10788/2/2015 – C8-0294/2015 – 2013/0309(COD)

Council position**Recital 7***Council position*

(7) In order to exercise their rights to access and distribute information and content and to use and provide applications and services of their choice, end-users should be free to agree with providers of internet access services on tariffs for specific data volumes and speeds of the internet access service. Such agreements, as well as any commercial practices of providers of internet access services, should not limit the exercise of those rights and thus circumvent provisions of this Regulation safeguarding open internet access. National regulatory and other competent authorities should be empowered to intervene against agreements or commercial practices which, *by reason of their scale*, lead to situations where end-users' choice is materially reduced in practice. *To this end, the assessment of agreements and commercial practices should inter alia take into account the respective market positions of those providers of internet access services, and of the providers of content, applications and services, that are involved.* National regulatory and other competent authorities should be required, as part of their monitoring and enforcement function, to intervene when agreements or commercial practices would result in the undermining of the essence of the end-users' rights.

Amendment

(7) In order to exercise their rights to access and distribute information and content and to use and provide applications and services of their choice, end-users should be free to agree with providers of internet access services on tariffs for specific data volumes and speeds of the internet access service. Such agreements, as well as any commercial practices of providers of internet access services, should not limit the exercise of those rights and thus circumvent provisions of this Regulation safeguarding open internet access. National regulatory and other competent authorities should be empowered to intervene against agreements or commercial practices which lead to situations where end-users' choice is materially reduced in practice. National regulatory and other competent authorities should be required, as part of their monitoring and enforcement function, to intervene when agreements or commercial practices would result in the undermining of the essence of the end-users' rights.

Justification

This brings the text back into line with the Parliament's first reading cf. Recitals 47 to 49 and Articles 23(5) and 24.

Amendment 4**Michel Reimon**

on behalf of the Verts/ALE Group

Marisa Matias, Cornelia Ernst, Rina Ronja Kari, Curzio Maltese, Martina Michels, Matt Carthy, Sofia Sakorafa, Luke Ming Flanagan

on behalf of the GUE/NGL Group

Recommendation for second reading**A8-0300/2015****Pilar del Castillo Vera**

European single market for electronic communications

10788/2/2015 – C8-0294/2015 – 2013/0309(COD)

Council position**Recital 9***Council position*

(9) The objective of reasonable traffic management is to contribute to an efficient use of network resources and to an optimisation of overall transmission quality responding to the **objectively different technical quality of service** requirements of **specific categories** of traffic, and thus of the content, applications and services transmitted. Reasonable traffic management measures applied by providers of internet access services should be transparent, non-discriminatory and proportionate, and should not be based on commercial considerations. The requirement for traffic management measures to be non-discriminatory does not preclude providers of internet access services from implementing, in order to optimise the overall transmission quality, traffic management measures **which differentiate between objectively different categories of traffic**. Any **such differentiation** should, in order to optimise overall quality and user experience, be permitted only on the basis of objectively different **technical quality of service** requirements (for example, in terms of latency, jitter, packet loss, and bandwidth) **of the specific categories of traffic**, and not on the basis of commercial considerations. Such **differentiating** measures should be proportionate in relation to the purpose **of overall quality optimisation and should treat**

Amendment

(9) The objective of reasonable traffic management is to contribute to an efficient use of network resources and to an optimisation of overall transmission quality responding to the **objective** requirements of traffic, and thus of the content, applications and services transmitted. Reasonable traffic management measures applied by providers of internet access services should be transparent, non-discriminatory and proportionate, and should not be based on commercial considerations. The requirement for traffic management measures to be non-discriminatory does not preclude providers of internet access services from implementing, in order to optimise the overall transmission quality, traffic management measures. Any **traffic management measures** should, in order to optimise overall quality and user experience, be permitted only on the basis of objectively different requirements (for example, in terms of latency, jitter, packet loss, and bandwidth), and not on the basis of commercial considerations. Such measures should be proportionate in relation to the **specific network management** purpose **in question**. Such measures should not be maintained for longer than necessary.

equivalent traffic equally. Such measures should not be maintained for longer than necessary.

Or. en

Justification

This proposed amendment brings the recital in line with Article 3 (3) (c) agreed in trialogue. It reflects the sense of both the Commission's initial proposal for Article 23.5 and the amendment adopted by the Parliament for the same Article.

Amendment 5**Michel Reimon**

on behalf of the Verts/ALE Group

Marisa Matias, Cornelia Ernst, Rina Ronja Kari, Curzio Maltese, Martina Michels, Matt Carthy, Sofia Sakorafa, Kostas Chrysogonos, Luke Ming Flanagan

on behalf of the GUE/NGL Group

Recommendation for second reading**A8-0300/2015****Pilar del Castillo Vera**

European single market for electronic communications

10788/2/2015 – C8-0294/2015 – 2013/0309(COD)

Council position**Recital 15***Council position*

(15) Third, measures going beyond such reasonable traffic management measures might also be necessary *to prevent impending network congestion, that is, situations where congestion is about to materialise, and* to mitigate the effects of network congestion, where such congestion occurs only temporarily or in exceptional circumstances. The principle of proportionality requires that traffic management measures based on that exception treat equivalent categories of traffic equally. Temporary congestion should be understood as referring to specific situations of short duration, where a sudden increase in the number of users in addition to the regular users, or a sudden increase in demand for specific content, applications or services, may overflow the transmission capacity of some elements of the network and make the rest of the network less reactive. Temporary congestion might occur especially in mobile networks, which are subject to more variable conditions, such as physical obstructions, lower indoor coverage, or a variable number of active users with changing location. While it may be predictable that such temporary congestion might occur from time to time at certain points in the network – such that it cannot be regarded as exceptional – it might not recur so often or for such extensive periods

Amendment

(15) Third, measures going beyond such reasonable traffic management measures might also be necessary to mitigate the effects of network congestion, where such congestion occurs only temporarily or in exceptional circumstances. The principle of proportionality requires that traffic management measures based on that exception treat equivalent categories of traffic equally. Temporary congestion should be understood as referring to specific situations of short duration, where a sudden increase in the number of users in addition to the regular users, or a sudden increase in demand for specific content, applications or services, may overflow the transmission capacity of some elements of the network and make the rest of the network less reactive. Temporary congestion might occur especially in mobile networks, which are subject to more variable conditions, such as physical obstructions, lower indoor coverage, or a variable number of active users with changing location. While it may be predictable that such temporary congestion might occur from time to time at certain points in the network – such that it cannot be regarded as exceptional – it might not recur so often or for such extensive periods that a capacity expansion would be economically justified. Exceptional congestion should be understood

that a capacity expansion would be economically justified. Exceptional congestion should be understood as referring to unpredictable and unavoidable situations of congestion, both in mobile and fixed networks. Possible causes of those situations include a technical failure such as a service outage due to broken cables or other infrastructure elements, unexpected changes in routing of traffic or large increases in network traffic due to emergency or other situations beyond the control of providers of internet access services. Such congestion problems are likely to be infrequent but may be severe, and are not necessarily of short duration. The need to apply traffic management measures going beyond the reasonable traffic management measures in order to prevent or mitigate the effects of temporary or exceptional network congestion should not give providers of internet access services the possibility to circumvent the general prohibition on blocking, slowing down, altering, restricting, interfering with, degrading or discriminating between specific content, applications or services, or specific categories thereof. Recurrent and more long lasting network congestion which is neither exceptional nor temporary should not benefit from that exception but should rather be tackled through expansion of network capacity.

as referring to unpredictable and unavoidable situations of congestion, both in mobile and fixed networks. Possible causes of those situations include a technical failure such as a service outage due to broken cables or other infrastructure elements, unexpected changes in routing of traffic or large increases in network traffic due to emergency or other situations beyond the control of providers of internet access services. Such congestion problems are likely to be infrequent but may be severe, and are not necessarily of short duration. The need to apply traffic management measures going beyond the reasonable traffic management measures in order to prevent or mitigate the effects of temporary or exceptional network congestion should not give providers of internet access services the possibility to circumvent the general prohibition on blocking, slowing down, altering, restricting, interfering with, degrading or discriminating between specific content, applications or services, or specific categories thereof. Recurrent and more long lasting network congestion which is neither exceptional nor temporary should not benefit from that exception but should rather be tackled through expansion of network capacity.

Or. en

Justification

This amendment brings the text into line with Parliament's first reading position (Article 23(5)). It should be noted that neither the Commission's proposal nor the Parliament's first reading text had any reference to "impending congestion".

Amendment 6**Michel Reimon**

on behalf of the Verts/ALE Group

Marisa Matias, Cornelia Ernst, Rina Ronja Kari, Curzio Maltese, Martina Michels, Matt Carthy, Sofia Sakorafa, Kostas Chrysogonos, Luke Ming Flanagan

on behalf of the GUE/NGL Group

Recommendation for second reading**A8-0300/2015****Pilar del Castillo Vera**

European single market for electronic communications

10788/2/2015 – C8-0294/2015 – 2013/0309(COD)

Council position**Recital 16***Council position*

(16) There is demand on the part of providers of content, applications and services to be able to provide electronic communication services other than internet access services, for which specific levels of quality, that ***are not assured*** by internet access services, are necessary. Such specific levels of quality are, for instance, ***required by*** some services responding to a public interest or by some new machine-to-machine communications services. Providers of electronic communications to the public, including providers of internet access services, and providers of content, applications and services should therefore be free to offer services which are not internet access services and which are optimised for specific content, applications or services, or a combination thereof, where the optimisation is ***necessary*** in order to meet the requirements of the content, applications or services for a specific level of quality. National regulatory authorities should verify whether and to what extent such optimisation is objectively necessary to ensure ***one or more specific and key features*** of the content, applications or services ***and to enable a corresponding quality assurance to be given to end-users***, rather than simply granting ***general*** priority over comparable content, applications or services available via the internet access service and thereby

Amendment

(16) There is demand on the part of providers of content, applications and services to be able to provide electronic communication services other than internet access services, for which specific levels of quality, that ***cannot be provided*** by internet access services, are ***necessary***. Such specific levels of quality are, for instance, ***essential for*** some services responding to a public interest or by some new machine-to-machine communications services ***to function***. Providers of electronic communications to the public, including providers of internet access services, and providers of content, applications and services should therefore be free to offer ***such*** services which are not internet access services and which are optimised for specific content, applications or services, or a combination thereof, where the optimisation is ***essential*** in order to meet the requirements of the content, applications or services for a specific level of quality. National regulatory authorities should verify whether and to what extent such optimisation is objectively necessary to ensure ***the functioning*** of the content, applications or services, rather than simply granting priority over comparable content, applications or services available via the internet access service and thereby circumventing the provisions regarding traffic management

circumventing the provisions regarding traffic management measures applicable to the internet access services.

measures applicable to the internet access services.

Or. en

Justification

This amendment would partly restore Parliament's position on first reading. Cf. Article 23(5) and Article 24(1)).

Amendment 7**Michel Reimon**

on behalf of the Verts/ALE Group

Marisa Matias, Cornelia Ernst, Rina Ronja Kari, Curzio Maltese, Martina Michels, Matt Carthy, Sofia Sakorafa, Kostas Chrysogonos, Luke Ming Flanagan

on behalf of the GUE/NGL Group

Recommendation for second reading**A8-0300/2015****Pilar del Castillo Vera**

European single market for electronic communications

10788/2/2015 – C8-0294/2015 – 2013/0309(COD)

Council position**Recital 17***Council position*

(17) In order to avoid the provision of such other services having a negative impact on the availability or general quality of internet access services for end-users, sufficient capacity needs to be ensured. Providers of electronic communications to the public, including providers of internet access services, should, therefore, offer such other services, or conclude corresponding agreements with providers of content, applications or services facilitating such other services, only if the network capacity is sufficient for their provision in addition to any internet access services provided. The provisions of this Regulation on the safeguarding of open internet access should not be circumvented by means of other services usable or offered as a replacement for internet access services. However, the mere fact that corporate services such as virtual private networks might also give access to the internet should not result in them being considered to be a replacement of the internet access services, provided that the provision of such access to the internet by a provider of electronic communications to the public complies with Article 3(1) to (4) of this Regulation, and therefore cannot be considered to be a circumvention of those provisions. The provision of such services other than internet access services should not be to the detriment

Amendment

(17) In order to avoid the provision of such other services having a negative impact on the availability or general quality of internet access services for end-users, sufficient capacity needs to be ensured. Providers of electronic communications to the public, including providers of internet access services, should, therefore, offer such other services, or conclude corresponding agreements with providers of content, applications or services facilitating such other services, only if the network capacity is sufficient for their provision in addition to any internet access services provided. The provisions of this Regulation on the safeguarding of open internet access should not be circumvented by means of other services usable or offered as a replacement for internet access services ***or for content, applications or services available over internet access services***. However, the mere fact that corporate services such as virtual private networks might also give access to the internet should not result in them being considered to be a replacement of the internet access services, provided that the provision of such access to the internet by a provider of electronic communications to the public complies with Article 3(1) to (4) of this Regulation, and therefore cannot be considered to be a circumvention of those provisions. The

of the availability and general quality of internet access services for end-users. In mobile networks, traffic volumes in a given radio cell are more difficult to anticipate due to the varying number of active end-users, and for this reason an impact on the quality of internet access services for end-users might occur in unforeseeable circumstances.

provision of such services other than internet access services should not be to the detriment of the availability and general quality of internet access services for end-users. In mobile networks, traffic volumes in a given radio cell are more difficult to anticipate due to the varying number of active end-users, and for this reason an impact on the quality of internet access services for end-users might occur in unforeseeable circumstances

Or. en

Justification

This amendment would restore Parliament's position on first reading (cf. Article 2(15), Article 23(5) and Article 24(1)).

21.10.2015

A8-0300/8

Amendment 8

Michel Reimon

on behalf of the Verts/ALE Group

Marisa Matias, Cornelia Ernst, Rina Ronja Kari, Curzio Maltese, Martina Michels, Matt Carthy, Sofia Sakorafa, Kostas Chrysogonos, Luke Ming Flanagan, Barbara Spinelli

on behalf of the GUE/NGL Group

Recommendation for second reading

A8-0300/2015

Pilar del Castillo Vera

European single market for electronic communications

10788/2/2015 – C8-0294/2015 – 2013/0309(COD)

Council position

Article 2 – paragraph 2 – point 1 a (new)

Council position

Amendment

(1a) ‘net neutrality’ means the principle according to which all internet traffic is treated equally, without discrimination, restriction or interference, independently of its sender, recipient, type, content, device, service or application;

Or. en

Justification

This amendment would restore Parliament's position on first reading art. 2.

21.10.2015

A8-0300/9

Amendment 9

Michel Reimon

on behalf of the Verts/ALE Group

Marisa Matias, Cornelia Ernst, Rina Ronja Kari, Curzio Maltese, Martina Michels, Matt Carthy, Sofia Sakorafa, Kostas Chrysogonos, Luke Ming Flanagan, Barbara Spinelli

on behalf of the GUE/NGL Group

Recommendation for second reading

A8-0300/2015

Pilar del Castillo Vera

European single market for electronic communications
10788/2/2015 – C8-0294/2015 – 2013/0309(COD)

Council position

Article 2 – paragraph 2 – point 2

Council position

(2) ‘internet access service’ means a publicly available electronic communications service that provides access to the internet, and thereby connectivity to virtually all end points of the internet, irrespective of the network technology and terminal equipment used.

Amendment

(2) ‘internet access service’ means a publicly available electronic communications service that provides access to the internet *in accordance with the principle of net neutrality* and thereby connectivity to virtually all end points of the internet, irrespective of the network technology and terminal equipment used.

Or. en

Justification

This amendment would restore Parliament's position on first reading art. 2.

21.10.2015

A8-0300/10

Amendment 10

Michel Reimon

on behalf of the Verts/ALE Group

Marisa Matias, Cornelia Ernst, Rina Ronja Kari, Curzio Maltese, Martina Michels, Matt Carthy, Sofia Sakorafa, Kostas Chrysogonos, Luke Ming Flanagan

on behalf of the GUE/NGL Group

Recommendation for second reading

A8-0300/2015

Pilar del Castillo Vera

European single market for electronic communications

10788/2/2015 – C8-0294/2015 – 2013/0309(COD)

Council position

Article 3 – paragraph 2

Council position

2. Agreements between providers of internet access services and end-users on commercial and technical conditions and the characteristics of internet access services such as price, data volumes or speed, and any commercial practices conducted by providers of internet access services, shall not limit the exercise of the rights of end-users laid down in paragraph 1.

Amendment

2. Agreements between providers of internet access services and end-users on commercial and technical conditions and the characteristics of internet access services such as price, data volumes or speed, and any commercial practices conducted by providers of internet access services, shall not limit the exercise of the rights of end-users laid down in paragraph 1. ***This paragraph shall not prevent Member States from adopting additional regulations with regard to the practice of exempting certain content, applications, or services or categories thereof from data caps.***

Or. en

Justification

This amendment tries to accommodate the different positions of the three institutions and reflect the intention of the legislators. This amendment clarifies the position agreed within informal dialogues.