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Committee on the Internal Market and Consumer Protection

2013/0027(COD)

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AMENDMENTS
106 - 232

Draft report
Andreas Schwab
(PE514.882v01)

on measures to ensure a high common level of network and information security across the Union

Proposal for a directive
(COM(2013)0048 – C7-0035/2013 – 2013/0027(COD))

AM_Com_LegReport

Amendment 106
Vicente Miguel Garcés Ramón

Proposal for a directive
Citation 4 a (new)

Text proposed by the Commission	*Amendment*
	having regard to the European Parliament resolution of 12 September 2013 on a Cybersecurity Strategy of the European Union: An Open, Safe and Secure Cyberspace',

Or. es

Amendment 107
Vicente Miguel Garcés Ramón

Proposal for a directive
Recital -1 (new)

Text proposed by the Commission	*Amendment*
	(-1) In today's world, information and communication technologies (ICTs) should address the needs of society, including the needs of persons at risk of social exclusion. All ICT users should be able to depend on minimum standards guaranteeing ICT reliability, security, transparency, simplicity, interoperability and risk reduction.

Or. es

Amendment 108
Zuzana Roithová

Proposal for a directive
Recital 2

Text proposed by the Commission	*Amendment*
(2) The magnitude and frequency of deliberate or accidental security incidents is increasing and represents a major threat to the functioning of networks and information systems. Such incidents can impede the pursuit of economic activities, generate substantial financial losses, undermine user confidence and cause major damage to the economy of the Union.	(2) The magnitude and frequency of deliberate or accidental security incidents is increasing ***drastically*** and represents a major threat to the functioning of networks and information systems. Such incidents can impede the pursuit of economic activities, generate substantial financial losses, undermine user confidence ***and impinge on their private lives, result in a violation of the fundamental rights and freedoms of EU citizens*** and cause major damage to the economy of the Union.

Or. cs

Amendment 109
Zuzana Roithová

Proposal for a directive
Recital 3

Text proposed by the Commission	*Amendment*
(3) As a communication instrument without frontiers, digital information systems, and primarily the Internet play an essential role in facilitating the cross-border movement of goods, services ***and*** people. Due to that transnational nature, substantial disruption of those systems in one Member State can also affect other Member States and the Union as a whole. The resilience ***and*** stability of network and information systems is therefore essential to the smooth functioning of the internal market.	(3) As a communication instrument without frontiers, digital information systems, and primarily the Internet play an essential role in facilitating the cross-border movement of goods, services***,*** people ***and capital***. Due to that transnational nature, substantial disruption of those systems in one Member State can also affect other Member States and the Union as a whole. The resilience***,*** stability ***and interconnectedness*** of network and information systems is therefore essential to the smooth functioning of the internal market.

Or. cs

Amendment 110
Christian Engström

Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission	*Amendment*
	(3a) Since the more common causes of system failure, such as natural causes or human error, continue to be unintentional, infrastructure should be resilient both to intentional and unintentional disruptions, and operators of critical infrastructure should design resilience based systems that remain operational even when other systems beyond their control fail.

Or. en

Amendment 111
Vicente Miguel Garcés Ramón

Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission	*Amendment*
	(3a) NIS in the EU should provide a secure and reliable digital environment, ensure net neutrality and guarantee the universal right to access technologies and all related services. Cybersecurity should be regulated in such a way that no discretionality can be applied.

Or. es

Amendment 112
Vicente Miguel Garcés Ramón

Proposal for a directive
Recital 5

Text proposed by the Commission	*Amendment*
(5) To cover all relevant incidents and risks, this Directive should apply to all network and information systems. ***The obligations on public administrations and market operators should however not apply to undertakings providing public communication networks or publicly available electronic communication services within the meaning of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), which are subject to the specific security and integrity requirements laid down in Article 13a of that Directive nor should they apply to trust service providers.***	(5) To cover all relevant incidents and risks, this Directive should apply to all network and information systems.

Or. es

Amendment 113
Vicente Miguel Garcés Ramón

Proposal for a directive
Recital 5 a (new)

Text proposed by the Commission	*Amendment*
	(5a) Several Member States are yet to publish their national cybersecurity strategies, and are still to draw up their contingency plans for cyber incidents. At the same time, some Member States have not established a computer emergency and response team (CERT) or ratified the Council of Europe's Convention on Cybercrime.

Or. es

Amendment 114
Vicente Miguel Garcés Ramón

Proposal for a directive
Recital 6

Text proposed by the Commission	*Amendment*
(6) The existing capabilities are not sufficient enough to ensure a high level of NIS within the Union. Member States have very different levels of preparedness leading to fragmented approaches across the Union. This leads to an unequal level of protection of consumers and businesses, and undermines the overall level of NIS within the Union. Lack of common minimum requirements on public administrations and market operators in turn makes it impossible to set up a global and effective mechanism for cooperation at Union level.	(6) The existing capabilities are not sufficient enough to ensure a high level of NIS within the Union. Member States have very different levels of preparedness leading to fragmented approaches across the Union. This leads to an unequal level of protection of consumers and businesses, and undermines the overall level of NIS within the Union. Lack of common minimum requirements on public administrations and market operators in turn makes it impossible to set up a global and effective mechanism for cooperation at Union level. ***There is a need effectively to spur R&D&i in these areas and provide it with adequate funding. Universities and research centres have a decisive role to play in this regard.***

Or. es

Amendment 115
Andreas Schwab

Proposal for a directive
Recital 8

Text proposed by the Commission	*Amendment*
(8) The provisions of this Directive should be without prejudice to the possibility for each Member State to take the necessary measures to ensure the protection of its essential security interests, to safeguard public policy and public security, and to permit the investigation, detection and prosecution of criminal offences. In accordance with Article 346 TFEU, no	(8) The provisions of this Directive should be without prejudice to the possibility for each Member State to take the necessary measures to ensure the protection of its essential security interests, to safeguard public policy and public security, and to permit the investigation, detection and prosecution of criminal offences. In accordance with Article 346 TFEU, no

Member State is to be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security.	Member State is to be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security. ***No Member States is obliged to disclose EU classified information according to Council Decision of 31 March 2011 on the security rules for protecting EU classified information (2011/292/EU), information subject to Non-Disclosure Agreements or informal Non-Disclosure Agreements, such as the Traffic Light Protocol.***

Or. en

Justification

This amendment aims at clarifying the treatment of confidential information within the scope of this Directive.

Amendment 116
Andreas Schwab

Proposal for a directive
Recital 10 a (new)

Text proposed by the Commission	*Amendment*
	(10 a) In view of the differences in national governance structures and in order to safeguard already existing sectoral arrangements or Union supervisory and regulatory bodies, and to avoid duplication, Member States should be able to designate more than one national competent authority in charge of fulfilling the tasks linked to the security of the networks and information systems of market operators under this Directive. However, in order to ensure smooth cross-border cooperation and communication, it is necessary that each Member State, without prejudice to sectoral regulatory arrangements, designate only one national single point of contact in charge

of cross-border cooperation at Union level. Where its constitutional structure or other arrangements so require, a Member State should be able to designate only one authority to carry out the tasks of the competent authority and the single point of contact.

Or. en

Justification

This amendment replaces AM 5 and aims at taking into account existing sectoral Union bodies which are already in charge of network and information security of certain sectors.

Amendment 117
Christian Engström

Proposal for a directive
Recital 13 a (new)

Text proposed by the Commission	*Amendment*
	(13a) Where possible, Member States may use or adapt existing organisational structures when applying the provisions of this Directive. An inventory and assessment should be made of existing plans and processes by Member States when elaborating the national NIS strategies.

Or. en

Justification

There is laudable action already ongoing in Member States and such structures and fora should be maintained or adapted where possible.

Amendment 118
Christian Engström

Proposal for a directive
Recital 14

Text proposed by the Commission	*Amendment*
(14) A secure information-sharing infrastructure should be put in place to allow for the exchange of sensitive and confidential information within the cooperation network. Without prejudice to their obligation to notify incidents and risks of Union dimension to the cooperation network, access to confidential information from other Member States should only be granted to Members States upon demonstration that their technical, financial and human resources and processes, as well as their communication infrastructure, guarantee their effective, efficient and secure participation in the network.	(14) A secure information-sharing infrastructure should be put in place to allow for the exchange of sensitive and confidential information within the cooperation network. ***The Secure Trans European Services for Telematics between Administrations (STESTA) could be used for this purpose.*** Without prejudice to their obligation to notify incidents and risks of Union dimension to the cooperation network, access to confidential information from other Member States should only be granted to Members States upon demonstration that their technical, financial and human resources and processes, as well as their communication infrastructure, guarantee their effective, efficient and secure participation in the network.

Or. en

Amendment 119
Vicente Miguel Garcés Ramón

Proposal for a directive
Recital 14

Text proposed by the Commission	*Amendment*
(14) A secure information-sharing infrastructure should be put in place to allow for the exchange of sensitive and confidential information within the cooperation network. Without prejudice to their obligation to notify incidents and risks of Union dimension to the cooperation network, access to confidential information from other Member States should only be granted to Members States upon demonstration that their technical,	(14) A secure information-sharing infrastructure should be put in place to allow for the exchange of sensitive and confidential information within the cooperation network. Without prejudice to their obligation to notify incidents and risks of Union dimension to the cooperation network, access to confidential information from other Member States should only be granted to Members States upon demonstration that their technical,

financial and human resources and processes, as well as their communication infrastructure, guarantee their effective, efficient and secure participation in the network.

financial and human resources and processes, as well as their communication infrastructure, guarantee their effective, efficient and secure participation in the network. ***This should always be done using transparent methods that prevent any arbitrary conduct between Member States.***

Or. es

Amendment 120
Christian Engström

Proposal for a directive
Recital 16

Text proposed by the Commission	*Amendment*
(16) To ensure transparency and properly inform EU citizens and market operators, the competent authorities should set up a common website to publish non confidential information on the incidents and risks.	(16) To ensure transparency and properly inform EU citizens and market operators, the competent authorities should set up a common website to publish non confidential information on the incidents and risks. ***Any personal data published on this website should be limited to only what is necessary and as anonymous as possible.***

Or. en

Amendment 121
Vicente Miguel Garcés Ramón

Proposal for a directive
Recital 16

Text proposed by the Commission	*Amendment*
(16) To ensure transparency and properly inform EU citizens and market operators, the competent authorities should ***set up a common website to*** publish non confidential information on the incidents	(16) To ensure transparency and properly inform EU citizens and market operators, the competent authorities should publish non confidential information on the incidents and risks ***on common digital***

and risks.

spaces which, in the same way as websites, allow for their consultation on mobile phones and tablets.

Or. es

Amendment 122
Vicente Miguel Garcés Ramón

Proposal for a directive
Recital 16 a (new)

Text proposed by the Commission	*Amendment*
	(16a) Special consideration should be given, as regards these environments, to the most vulnerable members of society, such as people on the wrong side of the digital divide and minorities with social network exposure. Special efforts should also be made to increase public awareness and education. Member States shall ensure that SMEs are able to further their understanding in the field NIS and bolster their capacities in the field of cybersecurity.

Or. es

Amendment 123
Konstantinos Poupakis

Proposal for a directive
Recital 18 a (new)

Text proposed by the Commission	*Amendment*
	(18a) In order to facilitate cooperation between the Member States and the Commission in their cross-border endeavours to prevent, detect and respond to network and data security incidents, ENISA must devise and operate at European level an early warning and

response mechanism to function alongside the mechanisms being used by the Member States;

Or. el

Justification

Where cybersecurity issues arise involving more than one Member State, ENISA must have the necessary resources to intervene and sound the alert at European level so as to ensure a more effective joint response by the Member States in cooperation with the relevant national authorities and single points of contact.

Amendment 124
Christian Engström

Proposal for a directive
Recital 21

Text proposed by the Commission	*Amendment*
(21) Given the global nature of NIS problems, there is a need for closer international cooperation to improve security standards and information exchange, and promote a common global approach to NIS issues.	(21) Given the global nature of NIS problems, there is a need for closer international cooperation to improve security standards and information exchange, and promote a common global approach to NIS issues. ***Any framework for such international cooperation should be subject to the provisions of Directive 95/46/EC and Regulation (EC) No 45/2001.***

Or. en

Amendment 125
Vicente Miguel Garcés Ramón

Proposal for a directive
Recital 27

Text proposed by the Commission	*Amendment*
(27) To avoid imposing a disproportionate financial and administrative burden on small operators and users, the requirements should be proportionate to the risk presented by the network or information system concerned, taking into account the state of the art of such measures. These requirements should not apply to micro enterprises.	(27) To avoid imposing a disproportionate financial and administrative burden on small operators and users, the requirements should be proportionate to the risk presented by the network or information system concerned, taking into account the state of the art of such measures. These requirements should not apply to micro enterprises***, which should be able to call on a suitable financial support mechanism to enable them to meet the requirements specified***.

Or. es

Amendment 126
Vicente Miguel Garcés Ramón

Proposal for a directive
Recital 28

Text proposed by the Commission	*Amendment*
(28) Competent authorities should pay due attention to preserving informal and trusted channels of information-sharing between market operators and between the public and the private sectors. Publicity of incidents reported to the competent authorities should duly balance the interest of the public in being informed about threats with possible reputational and commercial damages for the public administrations and market operators reporting incidents. In the implementation of the notification obligations, competent authorities should pay particular attention to the need to maintain information about product vulnerabilities strictly confidential prior to the release of appropriate security fixes.	(28) Competent authorities should pay due attention to preserving informal and trusted channels of information-sharing between market operators and between the public and the private sectors. Publicity of incidents reported to the competent authorities should duly balance the interest of the public in being informed about threats with possible reputational and commercial damages for the public administrations and market operators reporting incidents. In the implementation of the notification obligations, competent authorities should pay particular attention to the need to maintain information about product vulnerabilities strictly confidential prior to the release of appropriate security fixes. ***Under no circumstances must the fundamental rights to information and communication inherent to the rule of law***

be limited or nullified.

Or. es

Amendment 127
Vicente Miguel Garcés Ramón

Proposal for a directive
Recital 29

Text proposed by the Commission	*Amendment*
(29) Competent authorities should have the necessary means to perform their duties, including powers to obtain sufficient information from market operators and public administrations in order to assess the level of security of network and information systems as well as reliable and comprehensive data about actual incidents that have had an impact on the operation of network and information systems.	(29) Competent authorities should have the necessary means to perform their duties, including powers to obtain sufficient information from market operators and public administrations in order to assess the level of security of network and information systems as well as reliable and comprehensive data about actual incidents that have had an impact on the operation of network and information systems. ***The competent authorities should be able to hold liable the suppliers of defective computer programs or hardware or services that lead directly to an NIS incident.***

Or. es

Amendment 128
Konstantinos Poupakis

Proposal for a directive
Recital 29

Text proposed by the Commission	*Amendment*
(29) Competent authorities should have the necessary means to perform their duties, including powers to obtain sufficient information from market operators and public administrations in order to assess the level of security of network and	(29 Public authorities***, single points of contact and ENISA*** should have the necessary means to perform their duties, including powers to obtain sufficient information from market operators and public administrations in order to assess

information systems as well as reliable and comprehensive data about actual incidents that have had an impact on the operation of network and information systems.	the level of security of network and information systems as well as reliable and comprehensive data about actual incidents that have had an impact on the operation of network and information systems.

Or. el

Amendment 129
Konstantinos Poupakis

Proposal for a directive
Recital 30

Text proposed by the Commission	*Amendment*
(30) Criminal activities are in many cases underlying an incident. The criminal nature of incidents can be suspected even if the evidence to support it may not be sufficiently clear from the start. In this context, appropriate co-operation between competent authorities and law enforcement authorities ***should*** form part of an effective and comprehensive response to the threat of security incidents. In particular, promoting a safe, secure and more resilient environment requires a systematic reporting of incidents of a suspected serious criminal nature to law enforcement authorities. The serious criminal nature of incidents ***should*** be assessed in the light of EU laws on cybercrime.	(30) Criminal activities are in many cases underlying an incident. The criminal nature of incidents can be suspected even if the evidence to support it may not be sufficiently clear from the start. In this context, appropriate co-operation between competent authorities***, the single points of contact, ENISA*** and law enforcement authorities ***must*** form part of an effective and comprehensive response to the threat of security incidents. In particular, promoting a safe, secure and more resilient environment requires a systematic reporting of incidents of a suspected serious criminal nature to law enforcement authorities. The serious criminal nature of incidents ***must*** be assessed in the light of EU laws on cybercrime.

Or. el

Amendment 130
Christian Engström

Proposal for a directive
Recital 30 a (new)

Text proposed by the Commission	*Amendment*
	(30a) This Directive is without prejudice to the Union acquis relating to data protection.
	Any personal data used according to the provisions of this Directive should be limited to what is strictly necessary and only transmitted to the actors strictly necessary, and be as anonymous as possible, if not completely anonymous.

Or. en

Amendment 131
Christian Engström

Proposal for a directive
Recital 30 b (new)

Text proposed by the Commission	*Amendment*
	(30b) Adopting at EU level general data protection legislation should precede the adoption of cybersecurity legislation at EU level. Therefore, this Directive should be adopted only after the General Data Protection Regulation has been adopted.

Or. en

Amendment 132
Christian Engström

Proposal for a directive
Recital 31

Text proposed by the Commission	*Amendment*
(31) Personal data are in many cases compromised as a result of incidents. In this context, competent authorities ***and data protection authorities*** should	(31) Personal data are in many cases compromised as a result of incidents. In this context, competent authorities should cooperate and exchange information***,***

cooperate and exchange information ***on all relevant matters*** to tackle ***the*** personal data breaches resulting from incidents. Member states shall implement the obligation to notify security incidents in a way that minimises the administrative burden in case the security incident is also a personal data breach in line with the Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data. Liaising with the competent authorities and the data protection authorities, ENISA could assist by developing information exchange mechanisms and templates avoiding the need for two notification templates. This single notification template would facilitate the reporting of incidents compromising personal data thereby easing the administrative burden on businesses and public administrations.

where appropriate with market operators, in order to tackle personal data breaches resulting from incidents ***in line with applicable data protection rules***. Member states shall implement the obligation to notify security incidents in a way that minimises the administrative burden in case the security incident is also a personal data breach in line with the Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data. Liaising with the competent authorities and the data protection authorities, ENISA could assist by developing information exchange mechanisms and templates avoiding the need for two notification templates. This single notification template would facilitate the reporting of incidents compromising personal data thereby easing the administrative burden on businesses and public administrations.

Or. en

Amendment 133
Andreas Schwab

Proposal for a directive
Recital 34

Text proposed by the Commission	*Amendment*
(34) In order to allow for the proper functioning of the cooperation network, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the ***definition of the criteria to be fulfilled for a Member State to be authorized to participate to the secure information-sharing system,*** of the further specification of the triggering events for	(34) In order to allow for the proper functioning of the cooperation network, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the further specification of the triggering events for early warning.

early warning***, and of the definition of the circumstances in which market operators and public administrations are required to notify incidents***.

Or. en

Justification

This amendment replaces AM 17 and reflects the Rapporteur's new amendments to Articles 9, 10 and 18 (see also justification for Article 18).

Amendment 134
Andreas Schwab

Proposal for a directive
Recital 36

Text proposed by the Commission	*Amendment*
(36) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission as regards the cooperation between ***competent authorities*** and the Commission within the cooperation network, ***the access to*** the secure information-sharing infrastructure, the Union NIS cooperation plan***,*** the formats and procedures applicable to ***informing the public about*** incidents***, and the standards and/or technical specifications relevant to NIS***. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.	(36) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission as regards the cooperation between ***single points of contact*** and the Commission within the cooperation network, ***without prejudice to existing cooperation mechanisms at national level, the common set of interconnection and security standards for*** the secure information-sharing infrastructure, the Union NIS cooperation plan ***and*** the formats and procedures applicable to ***the notification of*** incidents ***having a significant impact***. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

Or. en

Justification

This amendment replaces AM 20. The amendment aims at correcting a mistake in the Commission proposal with regard to the content of the planned implementing act and reflecting the new amendment proposed to Article 9 paragraph 3.

Amendment 135
Vicente Miguel Garcés Ramón

Proposal for a directive
Recital 37

Text proposed by the Commission	*Amendment*
(37) In the application of this Directive, the Commission should liaise as appropriate with relevant sectoral committees and relevant bodies set up at EU level in particular in the field of energy, transport ***and health***.	(37) In the application of this Directive, the Commission should liaise as appropriate with relevant sectoral committees and relevant bodies set up at EU level in particular in the field of energy, transport***, health and the armed forces***.

Or. es

Amendment 136
Vicente Miguel Garcés Ramón

Proposal for a directive
Recital 40 a (new)

Text proposed by the Commission	*Amendment*
	(40a) The combating of cybercrime should be flanked with the combating of international espionage, which undermines the sovereignty of the EU and its Member States. This Directive should protect the public, enterprises, public and private institutions and states and their governments from common crime, organised crime and espionage, including cybercrime.

Or. es

Amendment 137
Vicente Miguel Garcés Ramón

Proposal for a directive
Recital 41

Text proposed by the Commission	*Amendment*
(41) This Directive ***respects*** the fundamental rights, and ***observes*** the principles***,*** recognised by the Charter of Fundamental Rights of the European Union notably, the right to respect for private life ***and communications***, the protection *for* ***personal*** data, the freedom to conduct a business, the right to property, the right to an effective remedy before a court and the right to be heard. This Directive must be implemented according to these rights and principles	(41) This Directive ***should in no way limit or nullify*** the fundamental rights, and ***should observe*** the principles recognised by***,*** the Charter of Fundamental Rights of the European Union ***and,*** notably, the right to respect for private life ***the rights of information and communication***, the protection ***of*** data, the freedom to conduct a business, the right to property, the right to an effective remedy before a court and the right to be heard. This Directive must be implemented according to these rights and principles

Or. es

Amendment 138
Vicente Miguel Garcés Ramón

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission	*Amendment*
1. This Directive lays down measures to ensure a high common level of network and information security (hereinafter referred to as "NIS") within the Union.	1. This Directive lays down measures to ensure a high common level of network and information security (hereinafter referred to as "NIS") within the Union***, providing a secure and reliable digital environment, ensure net neutrality and guarantee the universal right to access technologies and all related services***.

Or. es

Amendment 139
Vicente Miguel Garcés Ramón

Proposal for a directive
Article 1 – paragraph 2 – point c

Text proposed by the Commission	*Amendment*
c) establishes security requirements for market operators and public administrations.	c) establishes security requirements for market operators and public administrations ***which ensure that no discretionality can be applied***.

Or. es

Amendment 140
Andreas Schwab

Proposal for a directive
Article 1 – paragraph 2 – point c

Text proposed by the Commission	*Amendment*
(c) establishes security requirements for market operators ***and public administrations***.	(c) establishes security requirements for market operators.

Or. en

Justification

Alignment with the limitation in the scope of the AM with regard to Chapter IV. Public administrations should not be included in the scope of Chapter IV as their relevance to the functioning of the internal market is limited and due to their public mission should exert due diligence. Therefore, the same obligations as for market operators would not be appropriate.

Amendment 141
Vicente Miguel Garcés Ramón

Proposal for a directive
Article 1 – paragraph 3

Text proposed by the Commission	*Amendment*
3. The security requirements provided for in Article 14 shall apply neither to undertakings providing public communication networks or publicly available electronic communication services within the meaning of Directive 2002/21/EC, which shall comply with the specific security and integrity requirements laid down in Articles 13a and 13b of that Directive, nor to trust service providers.	***deleted***

Or. es

Amendment 142
Christian Engström

Proposal for a directive
Article 1 – paragraph 5

Text proposed by the Commission	*Amendment*
5. This Directive shall also be without prejudice to Directive 95/46/CE of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and to Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector ***and to*** the Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data.	5. This Directive shall also be without prejudice to Directive 95/46/CE of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and to Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector and the Regulation ***(EC) No 45/2001*** of the European Parliament and of the Council of ***18 December 2000*** on the protection of individuals with regard to the processing of personal data ***by the Community institutions and bodies*** and on the free movement of such data. ***Any use of the personal data should be limited to what is strictly necessary for the purposes of this***

Directive, and this data should be as anonymous as possible, if not completely anonymous.

Or. en

Amendment 143
Toine Manders

Proposal for a directive
Article 1 – paragraph 6

Text proposed by the Commission	*Amendment*
6. The sharing of information within the cooperation network under Chapter III and the notifications of NIS incidents under Article 14 may require the processing of personal data. Such processing, which is necessary to meet the objectives of public interest pursued by this Directive, shall be authorised by the Member State pursuant to Article 7 of Directive 95/46/EC and Directive 2002/58/EC, as implemented in national law.	6. The sharing of information within the cooperation network under Chapter III and the notifications of NIS incidents under Article 14 may require the processing of personal data. Such processing, which is necessary to meet the objectives of public interest pursued by this Directive, shall be authorised by the Member State pursuant to Article 7 of Directive 95/46/EC and Directive 2002/58/EC, as implemented in national law. ***Member States shall ensure that market operators and competent authorities are not held liable for using personal data which is required for the sharing of information within the cooperation network.***

Or. en

Amendment 144
Toine Manders

Proposal for a directive
Article 2

Text proposed by the Commission	*Amendment*
Member States shall ***not be prevented***	Member States shall ***adopt or maintain***

from adopting or maintaining provisions ensuring a higher level of security, ***without*** prejudice to their obligations under Union law.	provisions ensuring a higher level of security, ***with*** prejudice to their obligations under Union law ***and to national security purposes***.

Or. en

Amendment 145
Christian Engström

Proposal for a directive
Article 3 – point 2 a (new)

Text proposed by the Commission	*Amendment*
	(2a) "cyber resilience" means the ability of a network and information system to resist and recover to full operational capacity after incidents, including but not limited to, technical malfunction, power failure or security incidents;

Or. en

Amendment 146
Andreas Schwab

Proposal for a directive
Article 3 – point 3

Text proposed by the Commission	*Amendment*
(3) 'risk' means any circumstance or event having a potential adverse effect on security;	(3) 'risk' means any ***reasonably identifiable*** circumstance or event having a potential adverse effect on security;

Or. en

Amendment 147
Toine Manders

Proposal for a directive
Article 3 – point 5

Text proposed by the Commission	*Amendment*
(5) 'information society service' mean service within the meaning of point (2) of Article 1 of Directive 98/34/EC;	***deleted***

Or. en

Amendment 148
Toine Manders

Proposal for a directive
Article 3 – point 8 – point a

Text proposed by the Commission	*Amendment*
(a) provider of information society services which enable the provision of other information society services, a non exhaustive list of which is set out in Annex II;	***deleted***

Or. en

Amendment 149
Christian Engström

Proposal for a directive
Article 3 – point 8 – point b

Text proposed by the Commission	*Amendment*
(b) operator of critical infrastructure that are essential for the maintenance of ***vital economic and societal activities in the fields of energy, transport, banking, stock exchanges and health, a non exhaustive*** list of which is set out in Annex II.	(b) operator of critical infrastructure that are essential for the maintenance of ***economic stability and resilience, public health, public safety or any combination thereof, and the disruption or destruction of which would have a significant impact in a Member State as a result of the***

failure to maintain those functions, a non-exhaustive list of which is set out in Annex II.

Or. en

Amendment 150
Philippe Juvin, Marielle Gallo

Proposal for a directive
Article 3 – point 8 – point b

Text proposed by the Commission	*Amendment*
(b) operator of critical infrastructure that are essential for the maintenance of vital economic and societal activities in the fields of energy, transport, banking, stock exchanges and health, a non exhaustive list of which is set out in Annex II**.**	(b) operator of critical infrastructure that are essential for the maintenance of vital economic and societal activities in the fields of energy, transport, banking, stock exchanges and health, a non exhaustive list of which is set out in Annex II***, as far as the network and information systems concerned are directly related to it;***

Or. en

Justification

It is necessary to introduce an approach "by infrastructure" instead of a pure "sector" approach. Indeed, not all network and information systems of an operator of critical infrastructure are "critical" in the sense of being essential for the maintenance of vital activities (eg. network and information systems related to equipment maintenance). Only those network and information systems directly linked to the critical infrastructure should be subject to this Directive.

Amendment 151
Toine Manders

Proposal for a directive
Article 3 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. A "microenterprise" as defined in Article 2(3) of Commission Recommendation 2003/361/EC of 6 May 2003[1] concerning the definition of micro, small and medium-sized enterprises, is not a "market operator" within the scope of this definition, unless it functions as subsidiary for an operator of critical infrastructure as defined within the meaning of point (b) of the first paragraph of this point.
	[1] OJ L 124, 20.5.2003, p. 36.

Or. en

Amendment 152
Andreas Schwab, Malcolm Harbour

Proposal for a directive
Article 4

Text proposed by the Commission	*Amendment*
Article 4	***deleted***
Principle	
Member States shall ensure a high level of security of the network and information systems in their territories in accordance with this Directive.	

Or. en

Justification

Deletion necessary in order to avoid duplication with Article 1 paragraph 1. Further, Member States can only ensure the compliance of the addresses with the requirements laid down this Directive. A general principle to ensure a high level of security is not enforceable.

Amendment 153
Vicente Miguel Garcés Ramón

Proposal for a directive
Article 4

Text proposed by the Commission	*Amendment*
Member States shall ensure a high level of security of the network and information systems in their territories in accordance with this Directive.	Member States shall ensure a high level of security of the network and information systems in their territories in accordance with this Directive. ***The combating of cybercrime shall be flanked with the combating of international espionage aimed at undermining the sovereignty of the EU and its Member States.***

Or. es

Amendment 154
Vicente Miguel Garcés Ramón

Proposal for a directive
Article 5 – paragraph 1 – point e

Text proposed by the Commission	*Amendment*
e) Research and development plans and a description of how these plans reflect the identified priorities.	e) Research and development plans and a description of how these plans reflect the identified priorities***, and in which universities and research centres shall have a decisive role***.

Or. es

Amendment 155
Vicente Miguel Garcés Ramón

Proposal for a directive
Article 5 – paragraph 1 – point e a (new)

Text proposed by the Commission	*Amendment*
	ea) Quality programmes drawn up with

the utmost diligence and the measures needed to implement and extend this Directive. All applications must be built using reusable code and, insofar as this is possible, using open source software.

Or. es

Amendment 156
Andreas Schwab

Proposal for a directive
Article 5 – paragraph 2 – point a

Text proposed by the Commission	*Amendment*
(a) A risk ***assessment plan to identify risks and assess*** the impacts of potential incidents;	(a) A risk ***management framework to establish a methodology for the identification, prioritisation, evaluation and treatment of risks, the assessment of*** the impacts of potential incidents***, prevention and control options, and to define criteria for the choice of possible countermeasures***;

Or. en

Justification

This amendment replaces AM 29. The Commission proposal would have been too far-reaching with regard to questions of national security of Member States and would have rendered the cooperation plan impracticable and too complex in order to be effective.

Amendment 157
Christian Engström

Proposal for a directive
Article 5 – paragraph 2 – point a

Text proposed by the Commission	*Amendment*
(a) A risk assessment plan to identify risks and assess the impacts of potential	(a) A risk assessment plan to identify risks and assess the impacts of potential

incidents;	incidents; ***the plan should be reviewed and updated annually;***

Or. en

Amendment 158
Vicente Miguel Garcés Ramón

Proposal for a directive
Article 5 – paragraph 2 – point d a (new)

Text proposed by the Commission	*Amendment*
	da) Publication of an online directory of all the entities meeting the risk management and information requirements under the Directive, in a way that does not limit the right to information of any citizen of any Member State and which requires that a transparency plan be drawn up on NIS management and procedures.

Or. es

Amendment 159
Sari Essayah

Proposal for a directive
Article 5 – paragraph 2 – point d a (new)

Text proposed by the Commission	*Amendment*
	(da) improve the storage and use of passwords, like increasing the use of hash function or password management utilities.

Or. en

Amendment 160
Vicente Miguel Garcés Ramón

Proposal for a directive
Article 5 – paragraph 2 – point d b (new)

Text proposed by the Commission	*Amendment*
	db) (16a) Special consideration of the most vulnerable members of society, such as people on the wrong side of the digital divide and minorities with social network exposure.

Or. es

Amendment 161
Christian Engström

Proposal for a directive
Article 5 – paragraph 3

Text proposed by the Commission	*Amendment*
3. The national NIS strategy and the national NIS cooperation plan shall be communicated to the Commission within ***one month*** from their adoption.	3. The national NIS strategy and the national NIS cooperation plan shall be communicated to the Commission within ***three months*** from their adoption.

Or. en

Amendment 162
Andreas Schwab

Proposal for a directive
Article 6 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Each Member State shall designate ***a*** national competent ***authority*** on the security of network and information systems (***the*** 'competent authority').	1. Each Member State shall designate ***one or more civilian*** national competent ***authorities*** on the security of network and information systems (***hereinafter referred to as*** 'competent authority***/ies***').

Or. en

Justification

This amendment replaces AM 32 and aims at further specifying which type of institution should fulfil the role of national competent authority.

Amendment 163
Vicente Miguel Garcés Ramón

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The competent authorities shall monitor the application of this Directive at national level and contribute to its consistent application throughout the Union.	2. The competent authorities shall monitor the application of this Directive at national level and contribute to its consistent application throughout the Union. ***They shall also monitor the application of NIS measures within their spheres of responsibility.***

Or. es

Amendment 164
Andreas Schwab

Proposal for a directive
Article 6 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Where a Member State designates more than one competent authority, it shall designate a civilian national authority, for instance a competent authority, as national single point of contact on the security of network and information systems (hereinafter referred to as "single point of contact"). Where a Member State designates only one competent authority, that competent authority shall also be the single point of contact.

Or. en

Justification

This amendment replaces AM 33 and is in alignment to the new amendment on Article 6 Paragraph 1 by the Rapporteur. It aims at further specifying which type of institution should fulfil the role of single point of contact.

Amendment 165
Andreas Schwab

Proposal for a directive
Article 6 – paragraph 4

Text proposed by the Commission	*Amendment*
4. Member States shall ensure that the competent authorities receive the notifications of incidents from ***public administrations and*** market operators as specified under Article 14(2) and are granted the implementation and enforcement powers referred to under Article 15.	4. Member States shall ensure that the competent authorities ***and single points of contact, where applicable according to paragraph 2a of this Article,*** receive the notifications of incidents from market operators as specified under Article 14(2) and are granted the implementation and enforcement powers referred to under Article 15.

Or. en

Justification

This amendment replaces AM 37. It aims at clarifying the role of the different authorities in order to avoid duplication of notifications to both the competent authorities and the single points of contact. Given that in some sectors incident notifications are already provided to Union bodies, duplication should be avoided.

Amendment 166
Andreas Schwab

Proposal for a directive
Article 6 – paragraph 4 a (new)

Text proposed by the Commission	*Amendment*
	4a. Where Union legislation provides for a sector-specific Union supervisory or regulatory body, inter alia on the security of network and information systems, this body shall receive the notifications of incidents according to Article 14(2) from the market operators concerned in this sector and be granted the implementation and enforcement powers referred to under Article 15. This Union body shall cooperate closely with the competent authorities and the single point of contact of the host Member State with regard to these obligations. The single point of contact of the host Member State shall represent the Union body with regard to the obligations of Chapter III.

Or. en

Justification

This amendment replaces AM 37. It aims at clarifying the role of the different authorities in order to avoid duplication of notifications to both the competent authorities and the single points of contact. Given that in some sectors incident notifications are already provided to Union bodies, duplication should be avoided.

Amendment 167
Konstantinos Poupakis

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The ***competent authorities*** and the Commission shall form a network ("cooperation network") to cooperate ***against*** risks ***and*** incidents affecting network and information systems.	1. The ***single points of contact*** and the Commission***, together with ENISA if it so requests,*** shall form a network ("cooperation network") to cooperate ***in the development of detection, analysis and response procedures in dealing with security issues and*** risks ***or*** incidents

affecting network and information systems.

Or. el

Amendment 168
Malcolm Harbour

Proposal for a directive
Article 8 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The cooperation network shall bring into permanent communication the Commission and the ***competent authorities***. When requested, the European Network and Information Security Agency (‘ENISA’) shall assist the cooperation network by providing its expertise and advice.	2. The cooperation network shall bring into permanent communication the Commission and the ***single points of contact***. When requested, the European Network and Information Security Agency ('ENISA') shall assist the cooperation network by providing its expertise and advice. ***Where appropriate, market operators and suppliers of cyber security solutions may also be invited to participate in the activities of the cooperation network referred to in points (g), (h), (i) of paragraph 3.***

Or. en

Justification

In addition to the Rapporteur's amendments allowing for inclusion of market operators in the collaboration network, consideration should also be given to involvement of cyber security suppliers which can add significant value, as these organisations can provide input in terms of cyber threats gathered from across their customer bases, as well as a consolidated view of requirements, challenges and best practice across a broad range of customer groups.

Amendment 169
Vicente Miguel Garcés Ramón

Proposal for a directive
Article 8 – paragraph 3 – point c

Text proposed by the Commission	*Amendment*
c) publish on a regular basis non-confidential information on on-going early warnings and coordinated response on ***a common website***;	c) publish on a regular basis non-confidential information on on-going early warnings and coordinated response on ***common digital spaces which, in the same way as websites, allow for their consultation on mobile phones and tablets***;

Or. es

Amendment 170
Andreas Schwab

Proposal for a directive
Article 8 – paragraph 3 – point d

Text proposed by the Commission	*Amendment*
(d) jointly discuss and assess***, at the request of one Member State or of the Commission,*** one or more national NIS strategies and national NIS cooperation plans referred to in Article 5, within the scope of this Directive.	(d) jointly discuss and assess one or more national NIS strategies and national NIS cooperation plans referred to in Article 5, within the scope of this Directive.

Or. en

Justification

The possibility of individual requests by the Member States or the Commission would be too far-reaching and undermine the preconditions of the constructive functioning of such a cooperation network.

Amendment 171
Andreas Schwab

Proposal for a directive
Article 8 – paragraph 3 – point e

Text proposed by the Commission	*Amendment*
(e) jointly discuss and assess***, at the request of a Member State or the Commission,*** the effectiveness of the CERTs, in particular when NIS exercises are performed at Union level;	(e) jointly discuss and assess the effectiveness of the CERTs, in particular when NIS exercises are performed at Union level;

Or. en

Justification

The possibility of individual requests by the Member States or the Commission would be too far-reaching and undermine the preconditions of the constructive functioning of such a cooperation network.

Amendment 172
Andreas Schwab

Proposal for a directive
Article 8 – paragraph 3 – point f

Text proposed by the Commission	*Amendment*
(f) cooperate and exchange ***information on all*** relevant matters ***with the European Cybercrime Centre within Europol, and with other relevant European bodies*** in particular in the fields of data protection, energy, transport, banking, ***stock exchanges*** and health;	(f) cooperate and exchange ***expertise on*** relevant matters ***on network and information security,*** in particular in the fields of data protection, energy, transport, banking, ***financial markets*** and health ***with the European Cybercrime Centre within Europol, and with other relevant European bodies***;

Or. en

Justification

This amendment replaces AM 44. It aims at clarifying the type of information exchanged with the EC3 and other relevant European bodies.

Amendment 173
Andreas Schwab

Proposal for a directive
Article 8 – paragraph 3 – point h

Text proposed by the Commission	*Amendment*
(h) organise regular peer reviews on capabilities and preparedness;	***deleted***

Or. en

Justification

The Rapporteur supports the cooperation network; however a peer review could interfere with substantial aspects of national security which would not be covered by Article 114 TFEU.

Amendment 174
Andreas Schwab

Proposal for a directive
Article 8 – paragraph 3 – point i a (new)

Text proposed by the Commission	*Amendment*
	(ia) develop, in cooperation with ENISA, guidelines for sector-specific criteria for the notification of significant incidents, in addition to the parameters laid down in Article 14(2).

Or. en

Justification

This amendment should come after AM 45 (Art. 6 para. 3 ia (new). The reference to Article 14 paragraph 2 should be read in conjunction with AM 56 - 59. While this Directive provides for horizontal, cross-sector criteria triggering a notification, it is necessary to lay down sector-specific criteria. In order to achieve a Union-wide sector-specific application, the criteria should be developed within the network and in cooperation with ENISA.

Amendment 175
Philippe Juvin, Marielle Gallo

Proposal for a directive
Article 8 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. Competent authorities shall consult the public administrations and market operators concerned before any exchange, within the cooperation network, of sensitive and confidential information regarding the risks and incidents affecting their network and information systems.

Or. en

Justification

This amendment intends to make the procedure of information exchange via the cooperation network more inclusive, by taking into account potential comments and remarks to be made by the public administrations or market operators concerning sensitive or confidential information regarding the risks and incidents affecting their network and information systems. Competent authorities may take into account those remarks though they are not binding.

Amendment 176
Christian Engström

Proposal for a directive
Article 8 – paragraph 4

Text proposed by the Commission	*Amendment*
4. The Commission shall establish, by means of implementing acts, the necessary modalities to facilitate the cooperation between competent authorities and the Commission referred to in paragraphs 2 and 3. Those implementing acts shall be adopted in accordance with the ***consultation*** procedure referred to in Article 19(2).	4. The Commission shall establish, by means of implementing acts, the necessary modalities to facilitate the cooperation between competent authorities and the Commission referred to in paragraphs 2 and 3. Those implementing acts shall be adopted in accordance with the ***examination*** procedure referred to in Article 19(2).

Or. en

Amendment 177
Christian Engström

Proposal for a directive
Article 9 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. Personal data shall be only disclosed to recipients who need to process these data for the performance of their tasks in accordance with an appropriate legal basis. The disclosed data shall be limited to what is necessary for the performance of their tasks. Compliance with the purpose limitation principle shall be ensured. The time limit for the retention of these data shall be specified for the purposes set out in this Directive.

Or. en

Amendment 178
Christian Engström

Proposal for a directive
Article 9 – paragraph 1 b (new)

Text proposed by the Commission	*Amendment*
	1b. the criteria for the participation of Member States in the secure information sharing system to ensure that a high level of security and resilience is guaranteed by all participants at all steps of the processing, including by appropriate confidentiality and security measures in accordance with Articles 16 and 17 of Directive 95/46/EC and Articles 21 and 22 of Regulation (EC) No 45/2001.

Or. en

Amendment 179
Andreas Schwab, Malcolm Harbour

Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 18 concerning the definition of the criteria to be fulfilled for a Member State to be authorized to participate to the secure information-sharing system, regarding:	***deleted***
(a) the availability of a secure and resilient communication and information infrastructure at national level, compatible and interoperable with the secure infrastructure of the cooperation network in compliance with Article 7(3), and	
(b) the existence of adequate technical, financial and human resources and processes for their competent authority and CERT allowing an effective, efficient and secure participation in the secure information-sharing system under Article 6(3), Article 7(2) and Article 7(3).	

Or. en

Justification

Replaces AM 47.

Amendment 180
Christian Engström

Proposal for a directive
Article 9 – paragraph 2 – introductory part

Text proposed by the Commission	*Amendment*
2. The Commission shall be empowered to	2. The Commission shall be empowered to

adopt delegated acts in accordance with Article 18 concerning the definition of the criteria to be fulfilled for a Member State to be authorized to participate ***to*** the secure information-sharing system, regarding:	adopt delegated acts in accordance with Article 18 concerning the definition of the criteria to be fulfilled for a Member State to be authorized to participate ***in*** the secure information-sharing system, regarding:

Or. en

Amendment 181
Andreas Schwab, Malcolm Harbour

Proposal for a directive
Article 9 – paragraph 3

Text proposed by the Commission	*Amendment*
3. The Commission shall adopt, by means of implementing acts, ***decisions on the access of the Member States to this secure infrastructure, pursuant to the criteria referred to in paragraph 2 and 3***. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(3).	3. The Commission shall adopt, by means of implementing acts, ***a common set of interconnection and security standards that single points of contact shall meet before exchanging sensitive and confidential information across the cooperation network***. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19 (3).

Or. en

Justification

A common set of interconnection and security standards should be developed in order to protect information and lead to a transparent process and a greater sharing of information between Member States based on mutual trust.

Amendment 182
Konstantinos Poupakis

Proposal for a directive
Article 10 – paragraph 1 – introductory part

Text proposed by the Commission	*Amendment*
1. The ***competent authorities or*** the Commission shall provide early warnings within the cooperation network on those risks and incidents that fulfil at least one of the following conditions:	1. The ***points of single contact,*** the Commission ***or ENISA*** shall provide early warnings within the cooperation network on those risks and incidents that fulfil at least one of the following conditions:

Or. el

Amendment 183
Andreas Schwab

Proposal for a directive
Article 10 – paragraph 1 – point a

Text proposed by the Commission	*Amendment*
(a) they grow rapidly or may grow rapidly in scale;	***deleted***

Or. en

Justification

This criterion would be permanently fulfilled and trigger a disproportionate number of early warnings which exceed the capacities of authorities. Further, the growth of a risk or incident by itself does not necessarily require actions at Union level.

Amendment 184
Andreas Schwab

Proposal for a directive
Article 10 – paragraph 1 – point b

Text proposed by the Commission	*Amendment*
(b) ***they exceed or may exceed*** national response capacity;	(b) ***the single point of contact assesses that the risk or incident potentially exceeds*** national response capacity;

Or. en

Justification

This amendment aims at further specifying the criteria triggering early warnings. Further specifications should be done by delegated acts in order to provide for technical neutrality and to reflect sector-specific conditions.

Amendment 185
Andreas Schwab

Proposal for a directive
Article 10 – paragraph 1 – point c

Text proposed by the Commission	*Amendment*
(c) ***they affect or may affect*** more than one Member State.	(c) ***the single points of contact or the Commission assess that the risk or incident affects*** more than one Member State.

Or. en

Justification

This amendment aims at further specifying the criteria triggering early warnings. Further specifications should be done by delegated acts in order to remain technically neutral and reflect sector-specific conditions.

Amendment 186
Catherine Stihler

Proposal for a directive
Article 10 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. Members of the cooperation network shall only make public the information received on the risks or incidents once they have received approval from the notifying national competent authority.

Or. en

Amendment 187
Konstantinos Poupakis

Proposal for a directive
Article 10 – paragraph 2 – subparagraph 1a (new)

Text proposed by the Commission	*Amendment*
	ENISA shall, in cooperation with the Commission devise and operate at European level an early warning and response mechanism to function alongside the mechanisms being used by the Member States;

Or. el

Amendment 188
Andreas Schwab

Proposal for a directive
Article 10 – paragraph 3

Text proposed by the Commission	*Amendment*
3. At the request of a Member State, or on its own initiative, the Commission may request a Member State to provide any relevant information on a specific risk or incident.	***deleted***

Or. en

Justification

Paragraph 1 of this article already specifies under which conditions early warnings shall be triggered. Therefore, the possibility for further unspecified requests by the Commission or individual Member States would be too far-reaching and undermine constructive cooperation.

Amendment 189
Andreas Schwab

Proposal for a directive
Article 10 – paragraph 4

Text proposed by the Commission	*Amendment*
4. Where the risk or incident subject to an early warning is of a suspected criminal nature***, the competent authorities or the Commission*** shall ***inform*** the European Cybercrime Centre within Europol.	4. Where the risk or incident subject to an early warning is of a suspected ***serious*** criminal nature ***and where the concerned market operator has reported incidents of a suspected serious criminal nature as referred to in Article 15(4), the Member States*** shall ***ensure that*** the European Cybercrime Centre within Europol ***is informed, where appropriate***.

Or. en

Justification

This amendment replaces AM 50. Following the principle of legality, authorities other than law enforcement authorities cannot be bound by this principle and automatically notify suspected criminal incidents. Contacts between non-law enforcement authorities and the EC3 cannot be regulated within the context of this Directive.

Amendment 190
Andreas Schwab

Proposal for a directive
Article 10 – paragraph 4 a (new)

Text proposed by the Commission	*Amendment*
	4a. Members of the cooperation network shall not make public any information received on risks and incidents according to paragraph 1 without having received the prior approval of the notifying single point of contact.

Or. en

Justification

This amendment aims at safeguarding trust and encouraging information sharing by coordinating the publication of early warnings.

Amendment 191
Malcolm Harbour

Proposal for a directive
Article 10 – paragraph 4 a (new)

Text proposed by the Commission	*Amendment*
	4a. Members of the cooperation network, as well as the Commission, shall not make public any information received relating to risks or incidents according to paragraph 1, without having received the prior approval of the notifying single point of contact; furthermore, prior to sharing information in the cooperation network, the notifying single point of contact shall inform the market operator to which the information relates of its intention, and where it considers this appropriate, it shall make the information concerned anonymous.

Or. en

Justification

This is important for building trust and encouraging information sharing. Without these safeguards, national competent authorities and market operators would very likely refrain from notifying incidents and sharing information.

Amendment 192
Christian Engström

Proposal for a directive
Article 11 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Sufficient redundancy shall be built into a coordinated response plan

Or. en

Amendment 193
Vicente Miguel Garcés Ramón

Proposal for a directive
Article 12 – title

Text proposed by the Commission	*Amendment*
Union NIS cooperation plan	NIS ***EU strategy*** cooperation plan

Or. es

Amendment 194
Christian Engström

Proposal for a directive
Article 12 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. The Union NIS cooperation plan shall be designed to be coherent with national NIS strategies and cooperation plans as provided by Article 5 of this Directive, including where appropriate, the inventory referred to in Recital 13a.

Or. en

Justification

Please see Christian Engström's AM, Recital 13a (new)

Amendment 195
Sari Essayah

Proposal for a directive
Article 13

Text proposed by the Commission	*Amendment*
Without prejudice to the possibility for the	Without prejudice to the possibility for the

cooperation network to have informal international cooperation, the Union may conclude international agreements with third countries or international organisations allowing and organizing their participation in some activities of the cooperation network. Such agreement shall take into account the need to ensure adequate protection of the personal data circulating on the cooperation network.	cooperation network to have informal international cooperation, the Union may conclude international agreements with third countries or international organisations allowing and organizing their participation in some activities of the cooperation network. Such agreement shall take into account the need to ensure adequate protection of the personal data circulating on the cooperation network. ***On international level the Union shall aim at influencing the social networking service providers so that finding adequate security arrangements is not left to the user but automatically maximum security and encryption of messages is provided, after which the user may consciously allow the security settings to be adjusted leaner for specific purposes.***

Or. en

Amendment 196
Vicente Miguel Garcés Ramón

Proposal for a directive
Article 13

Text proposed by the Commission	*Amendment*
Without prejudice to the possibility for the cooperation network to have informal international cooperation, the Union may conclude international agreements with third countries or international organisations allowing and organizing their participation in some activities of the cooperation network. Such agreement shall take into account the need to ensure adequate protection of the personal data circulating on the cooperation network.	Without prejudice to the possibility for the cooperation network to have informal international cooperation, the Union may conclude international agreements with third countries or international organisations allowing and organizing their participation in some activities of the cooperation network. Such agreement shall take into account the need to ensure adequate protection of the personal data circulating on the cooperation network. ***Such agreements should also safeguard EU sovereignty and the independence of the EU's institutions and Member States.***

Or. es

Amendment 197
Andreas Schwab

Proposal for a directive
Article 13 a (new)

Text proposed by the Commission	*Amendment*
	Article 13a
	Level of criticality of market operators
	Member States may determine the level of criticality of market operators, taking into account the specificities of sectors, parameters including the importance of the particular market operator for maintaining a sufficient level of the sectoral service, the number of parties supplied by the market operator, and the time period until the discontinuity of the core services of the market operator has a negative impact on the maintenance of vital economic and societal activities.

Or. en

Justification

This amendment is part of Chapter IV and should precede Article 14 thereunder. This articles aims at allowing for a more differentiated classification of Annex II and as a consequence the obligations laid down in Chapter IV. Incident notification shall be done by all market operators regardless of their level of criticality, while the form of security audits may be adapted to the specific level of criticality of the market operator.

Amendment 198
Andreas Schwab

Proposal for a directive
Chapter 4 – title

Text proposed by the Commission	*Amendment*
SECURITY OF THE NETWORKS AND INFORMATION SYSTEMS OF ***PUBLIC***	SECURITY OF THE NETWORKS AND INFORMATION SYSTEMS OF

ADMINISTRATIONS AND MARKET OPERATORS	MARKET OPERATORS

Or. en

Justification

Alignment with the Draft Report.

Amendment 199
Christian Engström

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall ensure that public administrations and market operators take appropriate technical and organisational measures to manage the risks posed to the security of the networks and information systems which they control and use in their operations. ***Having regard to the state of the art,*** these measures shall ***guarantee*** a level of security appropriate to the risk presented***.*** In particular, measures shall be taken to prevent and minimise the impact of incidents affecting their network and information system on the core services they provide and thus ensure the continuity of the services underpinned by those networks and information systems.	1. Member States shall ensure that public administrations and market operators take appropriate technical and organisational measures to manage the risks posed to the security of the networks and information systems which they control and use in their operations. These measures shall ***ensure*** a level of security appropriate to the risk presented In particular, ***effective and proportionate*** measures shall be taken to prevent and minimise the impact of incidents affecting their network and information system on the core services they provide and thus ensure the continuity of the ***core*** services underpinned by those networks and information systems. ***Where necessary, public administrations and market operators must also take, at their own costs, appropriate and immediate measures to remedy any new, unforeseen security risks and restore the normal security level of the service.***

Or. en

Amendment 200
Andreas Schwab

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall ensure that ***public administrations and*** market operators take appropriate technical and organisational measures to manage the risks posed to the security of the networks and information systems which they control and use in their operations. Having regard to the state of the art, ***these*** measures shall guarantee a level of security appropriate to the risk presented. In particular, measures shall be taken to prevent and minimise the impact of incidents affecting their network and information system on the core services they provide and thus ensure the continuity of the services underpinned by those networks and information systems.	1. Member States shall ensure that market operators listed in Annex II take appropriate ***and proportionate*** technical and organisational measures to manage the risks posed to the security of the networks and information systems which they control and use in their operations. Having regard to the state of the art, ***those*** measures shall guarantee a level of security appropriate to the risk presented. In particular, measures shall be taken to prevent and minimise the impact of incidents affecting their network and information system on the core services they provide and thus ensure the continuity of the services underpinned by those networks and information systems.

Or. en

Justification

This amendment replaces AM 55.

Amendment 201
Philippe Juvin, Marielle Gallo

Proposal for a directive
Article 14 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission	*Amendment*
	Operators of critical infrastructure as defined in point (b) of Article 3(8) shall notify only those incidents, as defined in the previous subparagraph, that are directly related to the protection of a

critical infrastructure.

Or. en

Justification

This amendment reflects the modification introduced in article 3 point (8 b) regarding the definition of the second type of market operator (operator of a critical infrastructure). Indeed, not all network and information systems of an operator of critical infrastructure are "critical" in the sense of them being essential for the maintenance of vital activities. Only those network and information systems directly linked to the critical infrastructure should be subject to this Directive.

Amendment 202
Andreas Schwab

Proposal for a directive
Article 14 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission	*Amendment*
	Those parameters shall be further specified in accordance with point (ib) of Article 8(3).

Or. en

Justification

This amendment should follow AM 57, 58, 59 as a sentence 3 to paragraph 2. This amendment refers to the new amendment on guidelines tabled to Article 8 paragraph 3.

Amendment 203
Christian Engström

Proposal for a directive
Article 14 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Software producers shall be responsible for correcting security breaches, within 24 hours of being

informed for serious cases, and 72 hours for cases were the effects are unlikely to result in any significant financial loss or serious breach of privacy.

Or. en

Amendment 204
Philippe Juvin, Marielle Gallo

Proposal for a directive
Article 14 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. To evaluate whether an incident has a significant impact on the security of the core services public administrations and market operators provide, the following criteria shall especially be taken into account:
	(a) the number of users dependent on this core service that are affected by the incident;
	(b) the intensity of the damage caused to those users;
	(c) the duration of the incident;
	(d) the economic and social impact of the incident;
	(e) the impact on users' personal data, if concerned.

Or. en

Justification

The notion of "significant impact" needs to be specified in order to better circumscribe the incidents to be notified. This list is not exhaustive and other criteria could be taken into account, depending on the specificity of the incident.

Amendment 205
Christian Engström

Proposal for a directive
Article 14 – paragraph 2 b (new)

Text proposed by the Commission	*Amendment*
	2b. Commercial software producers shall not be protected from "no-liability" clauses when it can be demonstrated that their products are not properly designed to handle foreseeable security threats.

Or. en

Amendment 206
Christian Engström

Proposal for a directive
Article 14 – paragraph 2 c (new)

Text proposed by the Commission	*Amendment*
	2c. The supervisory body concerned shall also inform the public or require the trust service provider to do so. Notification and publication shall normally occur without undue delay; however the trust service provider may request a delay in notification and publication so that vulnerabilities can be fixed. If the supervisory body grants such a delay, it shall not exceed 45 days and the responsible entity shall agree to indemnify all relying parties, wherever in the world they are located, against losses directly arising from the delay in notification.

Or. en

Amendment 207
Catherine Stihler

Proposal for a directive
Article 14 – paragraph 4

Text proposed by the Commission	*Amendment*
4. The competent authority may inform the public, or require the public administrations and market operators to do so, where it determines that disclosure of the incident is in the public interest. Once a year, the competent authority shall submit a summary report to the cooperation network on the notifications received and the action taken in accordance with this paragraph.	4. The competent authority may inform the public, or require the public administrations and market operators to do so, where it determines that disclosure of the incident is in the public interest. Once a year, the competent authority shall submit a summary report to the cooperation network on the notifications received and the action taken in accordance with this paragraph. ***In the case of incidents notified to the cooperation network referred to in Article 8, other national competent authorities shall only make public any information received on risks or incidents once they have been approved by the notifying national competent authority.***

Or. en

Amendment 208
Vicente Miguel Garcés Ramón

Proposal for a directive
Article 14 – paragraph 4

Text proposed by the Commission	*Amendment*
4. The competent authority may inform the public, or require the public administrations and market operators to do so, where it determines that disclosure of the incident is in the public interest. Once a year, the competent authority shall submit a summary report to the cooperation network on the notifications received and the action taken in accordance with this paragraph.	4. The competent authority may inform the public, or require the public administrations and market operators to do so, where it determines that disclosure of the incident is in the public interest. Once a year, the competent authority shall submit a summary report to the cooperation network on the notifications received and the action taken in accordance with this paragraph. ***That annual report should contain, as a minimum, both the number of alerts issued and a breakdown of these by type. It shall be made available to the public in a compatible format enabling its***

publication on any open data portal wishing to publish it.

Or. es

Amendment 209
Andreas Schwab

Proposal for a directive
Article 14 – paragraph 4

Text proposed by the Commission	*Amendment*
4. ***The*** competent authority may inform the public***, or require the public administrations and*** market ***operators to do so, where it determines that*** disclosure ***of the incident is in the public interest***. Once a year, the ***competent authority*** shall submit a summary report to the cooperation network on the notifications received and the action taken in accordance with this paragraph.	4. ***After consultation with the notified*** competent authority ***and the market operator concerned, the single point of contact*** may inform the public ***about individual incidents, where public awareness is necessary to prevent an incident or deal with an on-going incident, or where that*** market ***operator, subject to an incident, has refused to address a serious structural vulnerability related to that incident without undue delay. Before any public*** disclosure***, the notified competent authority shall ensure that the market operator concerned has the possibility to be heard***. Once a year, the ***single point of contact*** shall submit a summary report to the cooperation network on the notifications received and the action taken in accordance with this paragraph.

Or. en

Justification

This amendment replaces DR 61 and aims at ensuring strengthening the right to be heard of market operators before the disclosure of individual incidents. Further, it allows the single point of contact to verify and complete the information to be disclosed.

Amendment 210
Malcolm Harbour

Proposal for a directive
Article 14 – paragraph 4 a (new)

Text proposed by the Commission	*Amendment*
	4a. The competent authority shall ensure that any information provided to it through incident reporting obligations is made anonymous wherever such information is transmitted to third parties.

Or. en

Justification

This is an essential measure to build trust and encourage information sharing. Without such a safeguard national competent authorities and, by extension, market operators would be discouraged from notifying incidents and sharing information.

Amendment 211
Toine Manders

Proposal for a directive
Article 14 – paragraph 4 a (new)

Text proposed by the Commission	*Amendment*
	4a. Member States shall provide the Commission and the cooperation network annually with a list of those public administrations and operators, which do not indicate incidents accurately. This list may be made publically available.

Or. en

Amendment 212
Malcolm Harbour

Proposal for a directive
Article 14 – paragraph 6 a (new)

Text proposed by the Commission	*Amendment*
	6a. The competent authorities or the single points of contact shall define a plan which clearly states the purpose of incident reporting, how reported information will be used, and the formats and procedures required for implementing the provisions of paragraph 2, in particular regarding the confidentiality and anonymity of information.

Or. en

Justification

Knowledge of an incident can be extremely sensitive, particularly since detection may cause a hostile actor to behave differently or cover tracks. Incident reporting can also bring reputational damage if knowledge of them becomes public. Therefore reporting process and their content should be linked to the ultimate use of the information captured to encourage timely and full reporting, and it is essential that appropriate security controls including anonymisation be put in place.

Amendment 213
Andreas Schwab

Proposal for a directive
Article 14 – paragraph 8 a (new)

Text proposed by the Commission	*Amendment*
	8a. Member States may decide to apply this Article and Article 15 to public administrations mutatis mutandis.

Or. en

Justification

Knowledge of an incident can be extremely sensitive, particularly since detection may cause a

hostile actor to behave differently or cover tracks. Incident reporting can also bring reputational damage if knowledge of them becomes public. Therefore reporting process and their content should be linked to the ultimate use of the information captured to encourage timely and full reporting, and it is essential that appropriate security controls including anonymisation be put in place.

Amendment 214
Toine Manders

Proposal for a directive
Article 15 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. Member States shall ensure that the competent authorities have the power to evaluate the accuracy of the evidence and reporting by public administrations or market operators.

Or. en

Amendment 215
Andreas Schwab

Proposal for a directive
Article 15 – paragraph 2 – point b

Text proposed by the Commission	*Amendment*
(b) ***undergo*** a security audit carried out by a qualified independent body or national authority and make the ***results thereof*** available to the competent authority.	(b) ***provide evidence of effective implementation of security policies, such as the results of*** a security audit carried out by a qualified independent body or national authority***,*** and make the ***evidence*** available to the competent authority ***or to the single point of contact***.

Or. en

Justification

This amendment replaces AM 66 and aims at establishing differentiated auditing

requirements taking into account the specificities of the market operator.

Amendment 216
Toine Manders

Proposal for a directive
Article 15 – paragraph 2 – point b a (new)

Text proposed by the Commission	*Amendment*
	(ba) Member States are encouraged to reduce the number and intensity of audits for this market operator or public administration if its security audit indicates good results in a consistent manner.

Or. en

Amendment 217
Toine Manders

Proposal for a directive
Article 15 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. Member States shall ensure that the competent authorities undergo an annual security audit. The results of these audits shall be made public.

Or. en

Amendment 218
Andreas Schwab

Proposal for a directive
Article 15 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. By way of derogation from point (b) of paragraph 2 of this Article, Member States may decide that the competent authorities or the single points of contact, as applicable, are to apply a different procedure to particular market operators, based on their level of criticality determined in accordance with Article 13a. In the event that Member States so decide:
	(a) competent authorities or the single points of contact, as applicable, shall have the power to submit a sufficiently specific request to market operators requiring them to provide evidence of effective implementation of security policies, such as the results of a security audit carried out by a qualified internal auditor, and make the evidence available to the competent authority or to the single point of contact;
	(b) where necessary, following the submission by the market operator of the request referred to in point (a), the competent authority or the single point of contact may require additional evidence or an additional audit to be carried out by a qualified independent body or national authority.

Or. en

Amendment 219
Andreas Schwab

Proposal for a directive
Article 15 – paragraph 4

Text proposed by the Commission	*Amendment*
4. The competent authorities ***shall notify incidents of a suspected serious*** criminal	4. The competent authorities ***and the single point of contact shall inform the market***

nature to law enforcement authorities.	***operators concerned about the possibility of reporting incidents of a suspected serious criminal nature to the*** law enforcement authorities.

Or. en

Justification

This amendment replaces AM 69. It should remain up to the concerned operator whether to bring charges against incidents of suspected serious criminal nature. Following the principle of legality, authorities other than law enforcement authorities cannot be bound by this principle and automatically notify suspected criminal incidents.

Amendment 220
Sylvana Rapti

Proposal for a directive
Article 15 – paragraph 5

Text proposed by the Commission	*Amendment*
5. The competent authorities shall work in close cooperation with ***personal*** data protection authorities when addressing incidents resulting in personal data breaches.	5. The competent authorities ***and the single points of contact*** shall work in close cooperation with data protection authorities when addressing incidents resulting in personal data breaches. ***The single points of contact and the data protection authorities shall develop, through cooperation with ENISA, information exchange mechanisms and a single template to be used both for notifications under Article 14(2) of this Directive and the Directive 95/46/EC of the European Parliament and of the Council[1].***
	[1] Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

Or. en

Amendment 221
Konstantinos Poupakis

Proposal for a directive
Article 15 – paragraph 5

Text proposed by the Commission	*Amendment*
5. The competent authorities shall work in close cooperation with personal data protection authorities when addressing incidents resulting in personal data breaches.	5. The competent authorities ***and single points of contact*** shall work in close cooperation with personal data protection authorities when addressing incidents resulting in personal data breaches. ***The single points of contact and personal data protection authorities shall cooperate through ENISA to develop information exchange mechanisms and a single model for notifications under Article 14(2) of this Directive and under Regulation (xxx) of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.***

Or. el

Amendment 222
Andreas Schwab

Proposal for a directive
Article 15 – paragraph 6 a (new)

Text proposed by the Commission	*Amendment*
	6a. Member States may decide to apply Article 14 and this Article to public administrations mutatis mutandis.

Or. en

Amendment 223
Toine Manders

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission	*Amendment*
1. To ensure convergent implementation of Article 14(1), Member States shall encourage the use of standards and/or specifications relevant to networks and information security.	1. To ensure convergent implementation of Article 14(1), Member States shall encourage the use of ***international or European*** standards and/or specifications relevant to networks and information security. ***Market operators shall remain free to use additional measures to achieve a higher level of security.***

Or. en

Amendment 224
Christian Engström

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission	*Amendment*
1. To ensure convergent implementation of Article 14(1), Member States shall encourage the use of standards and/or specifications relevant to networks and information security.	1. To ensure convergent implementation of Article 14(1), Member States shall encourage the use of ***open*** standards and/or specifications relevant to networks and information security.

Or. en

Amendment 225
Andreas Schwab

Proposal for a directive
Article 17 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. Member States shall ensure that the penalties referred to in paragraph 1 of this Article only apply where the market operator has failed to fulfil its obligations under Chapter IV with intent or as a result of gross negligence.

Or. en

Justification

This amendment replaces AM 73 and is a simplified formulation of the original amendment.

Amendment 226
Vicente Miguel Garcés Ramón

Proposal for a directive
Article 17 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. The competent authorities shall hold liable the suppliers of defective computer programs or hardware or services that lead directly to an NIS incident.

Or. es

Amendment 227
Andreas Schwab

Proposal for a directive
Article 18 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The power to adopt delegated acts referred to in ***Articles 9(2), 10(5) and 14(5)*** shall be conferred on the Commission. The Commission shall draw up a report in respect of the delegation of power not later	2. The power to adopt delegated acts referred to in ***Article 10(5)*** shall be conferred on the Commission ***for a period of five years from the date of transposition referred to in Article 21***. The Commission

than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.	shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Or. en

Justification

The Rapporteur withdraws AM 47 and replaces it with a deletion amendment on Article 9 para. 2. He also withdraws AM 51 and would like to maintain this delegated act in Article 10 para. 5, given that the criteria triggering early warnings in Article 10 para. 1 need further specification by delegated acts in order to be technically neutral and recognise sector-specific conditions etc.. In order to reflect these changes on delegated acts, this amendment also replaces AM 74.

Amendment 228
Vicente Miguel Garcés Ramón

Proposal for a directive
Annex 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission	*Amendment*
	6a. Multiplatform messaging services.

Or. es

Amendment 229
Sari Essayah

Proposal for a directive
Annex 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission	*Amendment*
	6a. Mirror servers

Or. en

Amendment 230
Andreas Schwab

Proposal for a directive
Annex 2 – paragraph 1 – point 2 – indent 1 a (new)

Text proposed by the Commission	*Amendment*
	(d) Maritime transport
	(i) Maritime carriers (inland, sea and coastal passenger water transport companies and inland, sea and coastal freight water transport companies)
	(ii) Ports
	(iii) Traffic management control operators
	(iv) Auxiliary logistics services:
	- warehousing and storage,
	- cargo handling, and
	- other transportation support activities

Or. en

Justification

This amendment replaces DR 97 and aims at including also inland maritime transport.

Amendment 231
Andreas Schwab

Proposal for a directive
Annex 2 – paragraph 1 – point 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Water services

Or. en

Justification

Water services as defined in Art. 2 point 38 of Directive 2000/60/EC, in particular major water services sites, are operated to a large degree by IT systems, including regarding the composition of water intended for human consumption. Furthermore, in the case of some major sites, the failure of the IT systems could bear the risk of raising the ground water level with potential critical effects, i.e. the breaking of dikes. Therefore, water services should be included in Annex II.

Amendment 232
Malcolm Harbour

Proposal for a directive
Annex 2 – paragraph 1 – point 5

Text proposed by the Commission	*Amendment*
5. Health sector: health care settings (including hospitals and private clinics) and other entities involved in health care provisions	5. Health sector: health care settings (including hospitals and private clinics) and other entities involved in health care provisions***, with the exception of private healthcare practices and pharmacies with an annual turnover of less than €2 million.***

Or. en

Justification

Many independent healthcare practices and pharmacies have an annual turnover of less than €2 million. Consequently, incidents affecting such enterprises are highly unlikely to have a sufficiently wide reaching impact on society as those affecting businesses of larger size. Imposition of the Directive's provisions on such enterprises would be disproportionate and would adversely impact on their ability to provide quality healthcare services.