



2016/0288(COD)

11.4.2017

DRAFT OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Industry, Research and Energy

on the proposal for a directive of the European Parliament and of the Council
establishing the European Electronic Communications Code
(COM(2016)0590 – C8-0379/2016 – 2016/0288(COD))

Rapporteur (*): Dita Charanzová

(*) Associated committee – Rule 54 of the Rules of Procedure

SHORT JUSTIFICATION

I. Introduction

In response to significant structural changes, characterised by a slow transition from copper to fibre, more complex competition with the convergence of fixed and mobile networks, the rise of retail bundles, the emergence of new online players along the value chains, and not least changing end-user expectations and requirements, including an explosion in demand for wireless data, the Commission has put forward an overhaul of the EU telecoms rules in September 2016.

The proposed European Electronic Communications Code puts forward new initiatives to meet Europe's growing connectivity needs and to encourage investment in high-capacity networks, whilst maintaining the regulatory framework's objective to ensure that markets operate more competitively, bringing lower prices and better quality of service to consumers and businesses. The Code also puts forward a revision of the sector-specific consumer protection rules, including on emergency communications, and the universal services regime. These provisions of the Code are deliberated under exclusive IMCO leadership, who acts as associated committee under Rule 54.

II. Position of the Rapporteur

The Rapporteur shares the overall objectives of the Commission's proposal, its emphasis on increased connectivity and the need to boost investment. In particular, the Rapporteur shares the Commission's view that there is a continued need for sector-specific consumer protection provisions, in addition to the horizontal EU consumer acquis. The Commission proposal is seen as a welcome step in the right direction.

At the same time, however, the Rapporteur has identified a number of elements that require further discussion. First, the rapporteur questions the need to extend the provisions of the telecoms framework to number-independent interpersonal communication services. Secondly, the Rapporteur puts forward a number of improvements as regards the universal service obligation. Finally, the Rapporteur suggests additional provisions to protect the rights of end-users in the market.

1. Scope - regulation of "new online players"

Whilst the Rapporteur agrees with the overall Commission's intent to establish a future-proof framework, she does not believe that the proposal accomplishes this objective. The distinction between number-based and non-number based interpersonal communication services and the dividing line between what would be considered a communication services and what would be seen as digital content may lead to legal uncertainty and confusion of end-users. Furthermore, the Rapporteur does not see any substantive reasons for regulating non-number based services within the telecoms framework and stresses the substantial differences from a consumer perspective in terms of connectivity, devices, functionality, interoperability and price and payments. She therefore considers it more appropriate to ensure that number-independent interpersonal communication services are addressed within the scope of the digital content directive, currently under negotiation, and other EU legislation, such as the Consumer Rights Directive.

To address this, the Rapporteur proposes a series of amendments to limit the scope of the end-user provisions and, inter alia, to set out the relationship between the sector-specific telecoms framework and the horizontal consumer acquis.

2. Universal Service Obligation

On Universal Services Obligations, the Rapporteur supports the Commission's overall approach, including its emphasis on the affordability of internet access service for all, and the proposal that Member States bear the cost of any USO. She puts forward a number of improvements to the current draft, including in particular:

- Limiting the scope to consumers (rather than end-users)
- Obliging national regulatory authorities to further define the minimum internet access service functionality on the basis of BEREC guidelines with a view to ensuring a consistent EU-wide approach, whilst offering Member States the necessary flexibility
- Setting a fixed deadline of 9 years for the phasing out of legacy USO, i.e. public payphones, directories and directory enquiry services
- Strengthening the obligations concerning the availability of social tariffs if retail prices are found to be unaffordable.

3. End-user rights

The Rapporteur agrees with the Commission that there is a continued need for sector-specific regulation and supports the Commission's proposal for maximum harmonisation, with a limited number of exceptions such as on maximum contract lengths. The Rapporteur puts forward two additional provisions, notably:

- A right to compensation for end-users in case of delays or material/non-material damage related to switching
- A provision to address the discriminatory and abusive practices concerning intra-EU calls and messaging services

In addition, the Rapporteur proposes a number of simplifications/ clarifications as well as some strengthened provisions based on COM proposal, including:

- Handset Based location for 112
- Better coverage for persons with disabilities.

AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive Recital 14

Text proposed by the Commission

(14) Definitions need to be adjusted so as to conform to the principle of technology neutrality and to keep pace with technological development. Technological and market evolution has brought networks to move to internet protocol technology, and enabled end-users to choose between a range of competing voice service providers. Therefore, the term 'publicly available telephone service', exclusively used in Directive 2002/22/EC and widely perceived as referring to traditional analogue telephone services should be replaced by the more current and technological neutral term 'voice communications'. Conditions for the provision of a service should be separated from the actual definitional elements of a voice communications service, i.e. an electronic communications service made available to the public for originating and receiving, directly or indirectly, national or national and international calls through a number or numbers in a national or international telephone numbering plan, whether such a service is based on circuit switching or packet switching technology. It is the nature of such a service that it is bidirectional, enabling both the parties to communicate. A service which does not fulfil all these conditions, such as for example a 'click-through' application on a customer service website, is not such a service. Voice communications services also include means of communication

Amendment

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specifically intended for **disabled end-users** using text relay or total conversation services.

specifically intended for **end-users with disabilities** using text **or video** relay or total conversation services **such as voice, video and real-time text, alone or in combination, within the same call.**

(Horizontal amendment: the change "disabled end-users" into "end-users with disabilities" applies through the text. Likewise, "disabled consumer" becomes "consumers with disabilities" "disabled persons" to "persons with disabilities", etc.)

Or. en

Justification

Better reflections the current state of communication by persons with disabilities. Moreover the disabled end-user/consumer/person should be corrected to the term used in other Union legislation which is "... with disabilities". This should apply throughout the text

Amendment 2

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) In order to fall within the scope of the definition of electronic communications service, a service needs to be provided normally in exchange for remuneration. ***In the digital economy, market participants increasingly consider information about users as having a monetary value. Electronic communications services are often supplied against counter-performance other than money, for instance by giving access to personal data or other data. The concept of remuneration should therefore encompass situations where the provider of a service requests and the end-user actively provides personal data, such as name or email address, or other data directly or indirectly to the provider. It should also encompass situations where the provider collects information without***

Amendment

(16) In order to fall within the scope of the definition of electronic communications service, a service needs to be provided normally in exchange for remuneration. In line with the jurisprudence of the Court of Justice of the European Union on Article 57 TFEU²⁴, remuneration exists within the meaning of the Treaty also if the service provider is paid by a third party and not by the service recipient. The concept of remuneration should therefore also encompass situations where the end-user is exposed to advertisements as a condition for gaining access to the service, or situations where the service provider ***intends to monetise*** personal data it has collected.

the end-user actively supplying it, such as personal data, including the IP address, or other automatically generated information, such as information collected and transmitted by a cookie). In

line with the jurisprudence of the Court of Justice of the European Union on Article 57 TFEU²⁴, remuneration exists within the meaning of the Treaty also if the service provider is paid by a third party and not by the service recipient. The concept of remuneration should therefore also encompass situations where the end-user is exposed to advertisements as a condition for gaining access to the service, or situations where the service provider *monetises* personal data it has collected.

²⁴ Case C-352/85 Bond van Adverteerders and Others vs The Netherlands State, EU:C:1988:196.

²⁴ Case C-352/85 Bond van Adverteerders and Others vs The Netherlands State, EU:C:1988:196.

Or. en

Justification

There is still legal uncertainty over the term "counter-performance other than money". It should therefore be removed from this recital. The idea of monetised of personal data maybe included, but should be limited to where it is known that data collected is collected with the intend to monetise it actively or in the future and not merely for functional usage. The concept of "data as currency" will be subject to the Digital Content Directive and the Rapporteur reserves the right to adjust her position in light of the Parliament's final position on that Directive

Amendment 3

Proposal for a directive Recital 17

Text proposed by the Commission

(17) Interpersonal communications services are services that enable interpersonal and interactive exchange of information, covering services like traditional voice calls between two individuals but also all types of emails,

Amendment

(17) Interpersonal communications services are services that enable interpersonal and interactive exchange of information, covering services like traditional voice calls between two individuals but also all types of emails,

messaging services, or group chats. Interpersonal communications services only cover communications between a finite, that is to say not potentially unlimited, number of natural persons which is determined by the sender of the communication. Communications involving legal persons should be within the scope of the definition where natural persons act on behalf of those legal persons or are involved at least on one side of the communication. Interactive communication entails that the service allows the recipient of the information to respond. Services which do not meet those requirements, such as linear broadcasting, video on demand, websites, social networks, blogs, or exchange of information between machines, should not be considered as interpersonal communications services. ***Under exceptional circumstances***, a service should not be considered as an interpersonal communications service if the interpersonal and interactive communication facility is a purely ancillary feature to another service and for objective technical reasons cannot be used without that principal service, and its integration is not a means to circumvent the applicability of the rules governing electronic communications services. An example for such an exception could be, in principle, a communication channel in online games, depending on the features of the communication facility of the service.

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Or. en

Justification

It is not clear reason this would be "exceptionally". It either is purely ancillary or not.

Amendment 4

Proposal for a directive Recital 137

Text proposed by the Commission

Amendment

(137) Currently both end-to-end connectivity and access to emergency services depend on end-users adopting number-based interpersonal communications services. ***Future technological developments or an increased use of number-independent interpersonal communications services could entail a lack of sufficient interoperability between communications services. As a consequence significant barriers to market entry and obstacles to further onward innovation could emerge and appreciably threaten both effective end-to-end connectivity between end-users and effective access to emergency services.***

(137) Currently both end-to-end connectivity and access to emergency services depend on end-users adopting number-based interpersonal communications services.

Or. en

Justification

Any future technological or market changes should be addressed in the review. We should not regulate until it is clear that such barriers and obstacles are likely, and this is not the case today.

Amendment 5

**Proposal for a directive
Recital 138**

Text proposed by the Commission

Amendment

(138) In case such interoperability issues arise, the Commission may request a BEREC report which should provide a factual assessment of the market situation at the Union and Member States level. On the basis of the BEREC report and other available evidence and taking into account the effects on the internal market, the Commission should decide whether there is a need for regulatory intervention by national regulatory authorities. If the Commission considers that such

deleted

regulatory intervention should be considered by National Regulatory Authorities, it may adopt implementing measures specifying the nature and scope of possible regulatory interventions by NRAs, including in particular measures to impose the mandatory use of standards or specifications on all or specific providers. The terms 'European standards' and 'international standards' are defined in Article 2 of Regulation (EU) No 1025/2012.³⁶ National regulatory authorities should assess, in the light of the specific national circumstances, whether any intervention is necessary and justified to ensure end-to-end-connectivity or access to emergency services, and if so, impose proportionate obligations in accordance with the Commission implementing measures.

³⁶ *Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council [OJ L 364 of 14.11.2012, p.12]*

Or. en

Justification

This is not needed

Amendment 6

Proposal for a directive
Recital 194

Text proposed by the Commission

Amendment

(194) Universal service is a safety net to ensure that a set of minimum services is available to all **end-users** at an affordable price, where a risk of social exclusion arising from the lack of such access prevents citizens from full social and economic participation in society.

(194) Universal service is a safety net to ensure that a set of minimum services is available to all **consumers** at an affordable price, where a risk of social exclusion arising from the lack of such access prevents citizens from full social and economic participation in society.

Or. en

Justification

USO should be for consumers, not end-users

Amendment 7

Proposal for a directive

Recital 195

Text proposed by the Commission

Amendment

(195) Basic broadband internet access is virtually universally available across the Union and very widely used for a wide range of activities. However, the overall take-up rate is lower than availability as there are still those who are disconnected by reasons related to awareness, cost, skills and by choice. Affordable **functional** internet access has become of crucial importance to society and the wider economy. It provides the basis for participation in the digital economy and society through essential online internet services.

(195) Basic broadband internet access is virtually universally available across the Union and very widely used for a wide range of activities. However, the overall take-up rate is lower than availability as there are still those who are disconnected by reasons related to awareness, cost, skills and by choice. Affordable internet access has become of crucial importance to society and the wider economy. It provides the basis for participation in the digital economy and society through essential online internet services.

Or. en

Justification

The term 'functional internet access' is replaced by simply 'internet access' throughout the text. There is not reason for this distinction. The questions of the quality of this internet access in regards to USO is a practical question of how this IAS is support, not that it is something different than just an IAS.

Amendment 8

Proposal for a directive Recital 196

Text proposed by the Commission

(196) *A fundamental requirement of universal service is to ensure that all end-users have access at an affordable price to available functional internet access and voice communications services, at least at a fixed location. Member States should also have the possibility to ensure affordability of services not provided at a fixed location but to citizens on the move, where they deem this necessary to ensure their full social and economic participation in society.* There should be no limitations on the technical means by which the connection is provided, allowing for wired or wireless technologies, nor any limitations on the category of operators which provide part or all of universal service obligations.

Amendment

(196) *Where the availability of internet access or of voice communications under normal commercial circumstances or through other potential public policy tools cannot be ensured, Member States should resolve such lack of provision by means of universal service obligations. It should be possible to restrict access at a fixed location to the consumer's primary location or residence. However, there should be no limitations on the technical means by which the connection at a fixed location is provided, allowing for wired or wireless technologies, nor any limitations on the category of operators which provide part or all of universal service obligations. A fundamental requirement of a universal service is to ensure that all consumers have access at an affordable price to available internet access and voice communications services, at least at a fixed location. Member States should also have the possibility to ensure affordability to citizens on the move, where they deem this to be necessary to ensure full social and economic participation in society.*

Or. en

Justification

This recital now covers both the affordability and availability, making clear that USO covers both.

Amendment 9

Proposal for a directive Recital 197

(197) The speed of Internet access experienced by a given user may depend on a number of factors, including the provider(s) of Internet connectivity as well as the given application for which a connection is being used. **The** affordable **functional** internet access service should **be** sufficient **in order** to support access to and use of a minimum set of basic services that reflect the services used by the majority of **end-users**. This minimum list of services should be further defined by **Member States, in order to allow** an adequate level of social inclusion and participation in the digital society and economy in their territory.

(197) The speed of Internet access experienced by a given user may depend on a number of factors, including the provider(s) of Internet connectivity as well as the given application for which a connection is being used. Affordable internet access service should **have** sufficient **functionality** to support access to and use of a minimum set of basic services that reflect the services used by the majority of **consumers**. This minimum list of services should be further defined by **national regulatory authorities in accordance with BEREC guidelines. It is for the national regulatory authorities, based on the BEREC guidelines, to establish the most appropriate way in which to ensure that the internet access supports the minimum list of services. For instance, they may define functionality in terms of the minimum quality of service requirements, including minimum bandwidth, necessary for an internet access service to support at least the minimum set of services set out in Annex V, based on the average use of such services by a majority of the population with the aim of allowing** an adequate level of social inclusion and participation in the digital society and economy in their territory. **The requirements of Union law on open internet, in particular as provided for in Regulation (EU) No 2015/2120 of the European Parliament and of the Council^{1a}, should apply to any such internet access service.**

^{1a} **Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation**

Justification

It should be for the BEREC guidelines on quality of services to also cover the methodology for implementing the minimum list of services in the annex and for the NRAs to than able that methodology to their individual Member States or parts of those Member States. This recital also makes clear that net neutrality rules apply to this internet access and Member State cannot limit the actual usages of this internet access

Amendment 10

**Proposal for a directive
Recital 198**

Text proposed by the Commission

(198) **End-users** should not be obliged to access services they do not want and it should therefore be possible for eligible **end-users** to limit, on request, the affordable universal service to voice communications service only.

Amendment

(198) **Consumers** should not be obliged to access services they do not want and it should therefore be possible for eligible **consumers** to limit, on request, the affordable universal service to voice communications service only.

Justification

USO should only apply to Consumers as Businesses as included in the term 'end-users' should not be able to benefit from social welfare measures

Amendment 11

**Proposal for a directive
Recital 200**

Text proposed by the Commission

(200) Affordable price means a price defined by Member States at national level in the light of specific national conditions, and **may** involve special tariff options or packages to deal with the needs of low-income users or users with special social

Amendment

(200) Affordable price means a price defined by Member States at national level in the light of specific national conditions, and **should** involve special **social** tariff options or packages to deal with the needs of low-income users or users with special

needs, including the elderly, the disabled and the **end-users** living in rural or geographically isolated areas. These offers should be provided with basic features, in order to avoid distortion of the functioning of the market. Affordability for individual **end-users** should be founded upon their right to contract with **an undertaking**, availability of a number, continued connection of service and their ability to monitor and control their expenditure.

social needs, including the elderly, the disabled and the **consumers** living in rural or geographically isolated areas. These offers should be provided with basic features, in order to avoid distortion of the functioning of the market. Affordability for individual **consumers** should be founded upon their right to contract with **a provider**, availability of a number, continued connection of service and their ability to monitor and control their expenditure.

Or. en

Justification

USO should only apply to Consumers as Businesses as included in the term 'end-users' should not be able to benefit from social welfare measures. 'social tariff' is commonly understood in most Member States, while 'special tariff' alone is a generic term with many different meanings.

Amendment 12

Proposal for a directive **Recital 201**

Text proposed by the Commission

(201) It should no longer be possible to refuse **end-users** access to the minimum set of connectivity services. A right to contract with **an undertaking** should mean that **end-users** who might face refusal, in particular those with low incomes or special social needs, should have the possibility to enter into a contract for the provision of affordable **functional** internet access and voice communications services at least at a fixed location with any **undertaking providing** such services in that location. In order to minimise the financial risks such as non-payment of bills, **undertakings** should be free to provide the contract under pre-payment terms, on the basis of affordable individual pre-paid units.

Amendment

(201) It should no longer be possible to refuse **consumers** access to the minimum set of connectivity services. A right to contract with **a provider** should mean that **consumers** who might face refusal, in particular those with low incomes or special social needs, should have the possibility to enter into a contract for the provision of affordable internet access and voice communications services at least at a fixed location with any **provider of** such services in that location. In order to minimise the financial risks such as non-payment of bills, **providers** should be free to provide the contract under pre-payment terms, on the basis of affordable individual pre-paid units.

Or. en

Justification

USO should only apply to Consumers as Businesses as included in the term 'end-users' should not be able to benefit from social welfare measures

Amendment 13

Proposal for a directive

Recital 202

Text proposed by the Commission

(202) In order to ensure that citizens are reachable by voice communications services, Member States should ensure the availability of a telephone number for a reasonable period also during periods of non-use of voice communications service. **Undertakings** should be able to put in place mechanisms to check the continued interest of the **end-user** in keeping the availability of the number.

Amendment

(202) In order to ensure that citizens are reachable by voice communications services, Member States should ensure the availability of a telephone number for a reasonable period also during periods of non-use of voice communications service. **Providers** should be able to put in place mechanisms to check the continued interest of the **consumer** in keeping the availability of the number.

Or. en

Justification

USO should only apply to Consumers as Businesses as included in the term 'end-users' should not be able to benefit from social welfare measures

Amendment 14

Proposal for a directive

Recital 204

Text proposed by the Commission

(204) In order to assess the need for affordability measures, national regulatory authorities should be able to monitor the evolution and details of offers of tariff options or packages for **end-users** with low incomes or special social needs.

Amendment

(204) In order to assess the need for affordability measures, national regulatory authorities should be able to monitor the evolution and details of offers of tariff options or packages for **consumers** with low incomes or special social needs.

Or. en

Justification

USO measures should apply to consumers, not end-users

Amendment 15

Proposal for a directive

Recital 205

Text proposed by the Commission

(205) Where additional measures beyond the *basic* tariff options or packages provided by *undertakings* are insufficient for ensuring affordability for *end-users* with low incomes or special needs, direct support such as for example vouchers to such *end-users* can be *an* appropriate alternative having regard to the need to minimise market distortions.

Amendment

(205) Where additional measures beyond the *social* tariff options or packages provided by *providers* are insufficient *alone* for ensuring affordability for *all consumers* with low incomes or special needs, *Member State should be able to grant* direct *additional* support *to such consumers*, such as for example vouchers to such *consumers or direct payments to providers*. *This* can be appropriate alternative *to other measures*, having regard to the need to minimise market distortions.

Or. en

Justification

This amendment clarifies that such vouchers is an additional measure to the social tariff and not a replace for the social tariff. If an individual is so destitute that even the social tariff is beyond affordability than a Member States might pay for the whole or part of that social tariff rate.

Amendment 16

Proposal for a directive

Recital 206

Text proposed by the Commission

(206) Member States should introduce measures to promote the creation of a market for affordable products and services incorporating facilities for *disabled end-users*, including equipment with assistive technologies. This can be achieved, inter alia, by referring to European standards, or

Amendment

(206) Member States should introduce measures to promote the creation of a market for affordable products and services incorporating facilities for *consumers with disabilities*, including equipment with assistive technologies. This can be achieved, inter alia, by referring to

by introducing requirements in accordance with Directive xxx/YYYY/EU of the European Parliament and of the Council *on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services*³⁸

Member States should define appropriate measures according to national circumstances, which gives flexibility for Member States to take specific measures for instance if the market is not delivering affordable products and services incorporating facilities for *disabled end-users* under normal economic conditions.

³⁸ *OJ C [...], [...], p. [...].*

European standards, *such as European standard EN 301 549 V1.1.2 (2015-04)* or by introducing requirements in accordance with Directive xxx/YYYY/EU of the European Parliament and of the Council³⁸. Member States should define appropriate measures according to national circumstances, which gives flexibility for Member States to take specific measures for instance if the market is not delivering affordable products and services incorporating facilities for *consumers with disabilities* under normal economic conditions. *The average cost of the relay services for consumers with disabilities should be equal to that of voice communication services in order not to prejudice consumers with disabilities.*

³⁸ *Directive xxx/YYYY/EU of the European Parliament and of the Council of ... on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services (OJ L ..., ..., p. ...).*

Or. en

Justification

This confirms that the rights of consumers with disabilities to similar coverage at similar costs is ensured. It also includes the European Standard reference to ensure that providers understand what is the minimum means to implement accessibility requirements.

Amendment 17

Proposal for a directive

Recital 207

Text proposed by the Commission

(207) For data communications at data rates that are sufficient to permit *a functional* Internet access, fixed-line connections are nearly universally available and used by a majority of citizens

Amendment

(207) For data communications at data rates that are sufficient to permit internet access, fixed-line connections are nearly universally available and used by a majority of citizens across the Union. The

across the Union. The standard fixed broadband coverage and availability in the Union stands at 97% of homes in 2015, with an average take-up rate of 72%, and services based on wireless technologies have even greater reach. However, there are differences between Member States as regards availability and affordability of fixed broadband across urban and rural areas.

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Or. en

Justification

The term 'functional internet access' is replaced by 'internet access' throughout the text.

Amendment 18

Proposal for a directive

Recital 208

Text proposed by the Commission

(208) The market has a leading role to play in ensuring availability of broadband internet access with constantly growing capacity. In areas where the market would not deliver, other public policy tools to support availability of **functional** internet access connections appear, in principle, more cost-effective and less market-distortive than universal service obligations, for example recourse to financial instruments such as those available under EFSI and CEF, the use of public funding from the European structural and investment funds, attaching coverage obligations to rights of use for radio spectrum to support the deployment of broadband networks in less densely populated areas and public investment in conformity with Union State aid rules.

Amendment

(208) The market has a leading role to play in ensuring availability of broadband internet access with constantly growing capacity. In areas where the market would not deliver, other public policy tools to support availability of internet access connections appear, in principle, more cost-effective and less market-distortive than universal service obligations, for example recourse to financial instruments such as those available under EFSI and CEF, the use of public funding from the European structural and investment funds, attaching coverage obligations to rights of use for radio spectrum to support the deployment of broadband networks in less densely populated areas and public investment in conformity with Union State aid rules. ***However, this Directive should still give Member States the option of applying universal service obligations as a potential measure to ensure the availability of internet access if the Member State concerned considers this to***

be necessary.

Or. en

Justification

Despite the statements of this recital, the article nonetheless gives the Member States the opinion to use USO for availability. This should be clear in the recital.

Amendment 19

Proposal for a directive

Recital 209

Text proposed by the Commission

(209) If after carrying out a due assessment, taking into account the results of the geographical survey of networks deployment conducted by the national regulatory authority, it is shown that neither the market nor public intervention mechanisms are likely to provide **end-users** in certain areas with a connection capable of delivering **functional** internet access service as defined by Member States in accordance with Article 79 (2) and voice communications services at a fixed location, the Member State should be able to exceptionally designate different **undertakings** or sets of **undertakings to provide** these services in the different relevant parts of the national territory. Universal service obligations in support of availability of **functional** internet access service may be restricted by Member States to the **end-user's** primary location or residence. There should be no constraints on the technical means by which the **functional** internet access and voice communications services at a fixed location are provided, allowing for wired or wireless technologies, nor any constraints on which operators provide part or all of universal service obligations.

Amendment

(209) If after carrying out a due assessment, taking into account the results of the geographical survey of networks deployment conducted by the national regulatory authority, it is shown that neither the market nor public intervention mechanisms are likely to provide **consumers** in certain areas with a connection capable of delivering internet access service as defined by Member States in accordance with Article 79 (2) and voice communications services at a fixed location, the Member State should be able to exceptionally designate different **providers** or sets of **providers of** these services in the different relevant parts of the national territory. Universal service obligations in support of availability of internet access service may be restricted by Member States to the **consumer's** primary location or residence. There should be no constraints on the technical means by which the internet access and voice communications services at a fixed location are provided, allowing for wired or wireless technologies, nor any constraints on which operators provide part or all of universal service obligations.

Or. en

Justification

see earlier rapporteur amendments

Amendment 20

Proposal for a directive

Recital 211

Text proposed by the Commission

(211) The costs of ensuring the availability of a connection capable of delivering **functional** internet access service as identified in accordance with Article 79 (2) and voice communications service at a fixed location at an affordable price within the universal service obligations should be estimated, in particular by assessing the expected financial burden for **undertakings** and users in the electronic communications sector.

Amendment

(211) The costs of ensuring the availability of a connection capable of delivering internet access service as identified in accordance with Article 79 (2) and voice communications service at a fixed location at an affordable price within the universal service obligations should be estimated, in particular by assessing the expected financial burden for **providers** and users in the electronic communications sector.

Or. en

Justification

see earlier rapporteur justifications

Amendment 21

Proposal for a directive

Recital 213

Text proposed by the Commission

(213) When **an undertaking** designated to ensure the availability at a fixed location of **functional** internet access or voice communications services, as identified in Article 81 of this Directive, chooses to dispose of a substantial part, viewed in light of its universal service obligation, or all, of its local access network assets in the national territory to a separate legal entity under different ultimate ownership, the national regulatory authority should assess

Amendment

(213) When **a provider** designated to ensure the availability at a fixed location of internet access or voice communications services, as identified in Article 81 of this Directive, chooses to dispose of a substantial part, viewed in light of its universal service obligation, or all, of its local access network assets in the national territory to a separate legal entity under different ultimate ownership, the national regulatory authority should assess the

the effects of the transaction in order to ensure the continuity of universal service obligations in all or parts of the national territory. To this end, the national regulatory authority which imposed the universal service obligations should be informed by the *undertaking* in advance of the disposal. The assessment of the national regulatory authority should not prejudice the completion of the transaction.

effects of the transaction in order to ensure the continuity of universal service obligations in all or parts of the national territory. To this end, the national regulatory authority which imposed the universal service obligations should be informed by the *provider* in advance of the disposal. The assessment of the national regulatory authority should not prejudice the completion of the transaction.

Or. en

Justification

see earlier rapporteur justifications

Amendment 22

Proposal for a directive Recital 214

Text proposed by the Commission

(214) In order to provide stability and support a gradual transition, Member States should be able to continue to ensure the provision of universal services in their territory, other than *functional* internet access and voice communications services at a fixed location, that are included in the scope of their universal obligations on the basis of Directive 2002/22/EC at the entry into force of this Directive, provided the services or comparable services are not available under normal commercial circumstances. Allowing the continuation of the provision of public payphones, directories and directory enquiry services under the universal service regime, as long as the need is still demonstrated, would give Member States the flexibility necessary to duly take into account the varying national circumstances. However, the financing of such services should be done via public funds as for the other universal service obligations.

Amendment

(214) In order to provide stability and support a gradual transition, Member States should be able to continue to ensure the provision of universal services in their territory, other than internet access and voice communications services at a fixed location, that are included in the scope of their universal obligations on the basis of Directive 2002/22/EC at the entry into force of this Directive, provided the services or comparable services are not available under normal commercial circumstances. Allowing the continuation of the provision of public payphones, directories and directory enquiry services under the universal service regime, as long as the need is still demonstrated, would give Member States the flexibility necessary to duly take into account the varying national circumstances. However, the financing of such services should be done via public funds as for the other universal service obligations. *Such obligations should, however, be phased-*

out gradually by a set date.

Or. en

Justification

USO for public payphones, directories and directory enquiry services should be phrased-out as the unneeded even in rural communities. But Member States should be given time to do so if needed.

Amendment 23

Proposal for a directive

Recital 215

Text proposed by the Commission

(215) Member States should monitor the situation of **end-users** with respect to their use of **functional** internet access and voice communications services and in particular with respect to affordability. The affordability of **functional** internet access and voice communications services is related to the information which **users** receive regarding usage expenses as well as the relative cost of usage compared to other services, and is also related to their ability to control expenditure. Affordability therefore means giving power to consumers through obligations imposed on **undertakings**. These obligations include a specified level of itemised billing, the possibility for consumers selectively to block certain calls (such as high-priced calls to premium services), the possibility for consumers to control expenditure via pre-payment means and the possibility for consumers to offset up-front connection fees. Such measures may need to be reviewed and changed in the light of market developments.

Amendment

(215) Member States should monitor the situation of **consumers** with respect to their use of internet access and voice communications services and in particular with respect to affordability. The affordability of internet access and voice communications services is related to the information which **consumers** receive regarding usage expenses as well as the relative cost of usage compared to other services, and is also related to their ability to control expenditure. Affordability therefore means giving power to consumers through obligations imposed on **providers**. These obligations include a specified level of itemised billing, the possibility for consumers selectively to block certain calls (such as high-priced calls to premium services), the possibility for consumers to control expenditure via pre-payment means and the possibility for consumers to offset up-front connection fees. Such measures may need to be reviewed and changed in the light of market developments.

Or. en

Justification

see earlier rapporteur justifications

Amendment 24

Proposal for a directive Recital 217

Text proposed by the Commission

(217) Where the provision of **functional** internet access and voice communications services or the provision of other universal services in accordance with Article 85 result in an unfair burden on **an undertaking**, taking due account of the costs and revenues as well as the intangible benefits resulting from the provision of the services concerned, that unfair burden can be included in any net cost calculation of universal obligations.

Amendment

(217) Where the provision of internet access and voice communications services or the provision of other universal services in accordance with Article 82 result in an unfair burden on **a provider**, taking due account of the costs and revenues as well as the intangible benefits resulting from the provision of the services concerned, that unfair burden can be included in any net cost calculation of universal obligations.

Or. en

Justification

fixed reference

Amendment 25

Proposal for a directive Recital 221

Text proposed by the Commission

(221) When a universal service obligation represents an unfair burden on **an undertaking**, it is appropriate to allow Member States to establish mechanisms for efficiently recovering net costs. The net costs of universal service obligations should be recovered via public funds. **Functional** internet access brings benefits not only to the electronic communications sector but also to the wider online economy and to society as a whole. Providing a connection which supports broadband speeds to an increased number of end-users enables them to use online services and so actively to participate in the digital society.

Amendment

(221) When a universal service obligation represents an unfair burden on **a provider**, it is appropriate to allow Member States to establish mechanisms for efficiently recovering net costs. The net costs of universal service obligations should be recovered via public funds. Internet access brings benefits not only to the electronic communications sector but also to the wider online economy and to society as a whole. Providing a connection which supports broadband speeds to an increased number of **consumers and other** end-users enables them to use online services and so actively to participate in the digital society.

Ensuring such connections on the basis of universal service obligations serves at least as much the public interest as it serves the interests of electronic communications providers. Therefore Member States should compensate the net costs of such connections supporting broadband speeds as part of the universal service from public funds, which should be understood to comprise funding from general government budgets.

Ensuring such connections on the basis of universal service obligations serves at least as much the public interest as it serves the interests of electronic communications providers. Therefore Member States should compensate the net costs of such connections supporting broadband speeds as part of the universal service from public funds, which should be understood to comprise funding from general government budgets.

Or. en

Justification

As this is a general statement, it can apply to both consumers and other end-users, while the USO is intended for consumers alone

Amendment 26

Proposal for a directive Recital 228 a (new)

Text proposed by the Commission

Amendment

(228a) Number-independent interpersonal communication services are indistinguishable from other digital content, as defined in Directive (EU) .../... of the European Parliament and the Council^{1a}, by consumers and are already subject to other Union legal acts under which protection similar to that provided for in this Directive with respect to end-users' rights is provided for. In order to prevent the same services to be subject to double regulation, number-independent interpersonal communication services should, unless otherwise provided, be excluded from the scope of those provisions on end-users' rights.

^{1a} Directive (EU) .../... of the European Parliament and of the Council of ... on certain aspects concerning contracts for the supply of digital content (OJ L ..., ...

p.).

Or. en

Justification

The parts of this title in regards for number-independent interpersonal communication services are already covered by other EU legislation or are not appropriate for such services. In order to prevent the same services to be subject to double regulation, they should be excluded here. NB: The Rapporteurs of the Digital Content Directive have tabled a position by which number-independent interpersonal communication services would be subject to that directive. This amendment should not prejudice the rapporteur from changing this proposal in light of the final adopted DCD text..

Amendment 27

Proposal for a directive Recital 229

Text proposed by the Commission

(229) The completion of the single market for electronic communications requires the removal of barriers for end-users to have cross-border access to electronic communications services across the Union. Providers of electronic communications to the public should not deny or restrict access or discriminate against end-users on the basis of their nationality **or** Member State of residence. Differentiation should, however, be possible on the basis of objectively justifiable differences in costs and risks, which may go beyond the measures provided for in Regulation 531/2012 in respect of abusive or anomalous use of regulated retail roaming services.

Amendment

(229) The completion of the single market for electronic communications requires the removal of barriers for end-users to have cross-border access to electronic communications services across the Union. Providers of electronic communications to the public should not deny or restrict access or discriminate against end-users on the basis of their nationality, Member State of residence **or of establishment**. Differentiation should, however, be possible on the basis of objectively justifiable differences in costs and risks, which may go beyond the measures provided for in Regulation 531/2012 in respect of abusive or anomalous use of regulated retail roaming services.

Or. en

Justification

the non-discrimination article applies to all end-users. This includes businesses and therefore place of establishment should be added

Amendment 28

Proposal for a directive Recital 229 a (new)

Text proposed by the Commission

Amendment

(229a) Very significant price differences continue to prevail, both for fixed and mobile number based interpersonal communications services, between domestic communications and those terminating in another Member State. Any significant retail price differences between electronic communications services terminating in the same Member State and those terminating in another Member State should therefore be justified by reference to objective criteria.

Or. en

Amendment 29

Proposal for a directive Recital 230

Text proposed by the Commission

Amendment

(230) Divergent implementation of the rules on end-user protection has created significant internal market barriers affecting both providers of electronic communications services and end-users. Those barriers should be reduced by the applicability of the same rules ensuring a high common level of protection across the Union. A calibrated full harmonisation of the end-user rights covered by this Directive should considerably increase legal certainty for both end-users and providers of electronic communications services, and should significantly lower entry barriers and unnecessary compliance burden stemming from the fragmentation of the rules. Full harmonisation helps to overcome barriers to the single market

(230) Divergent implementation of the rules on end-user protection has created significant internal market barriers affecting both providers of electronic communications services and end-users. Those barriers should be reduced by the applicability of the same rules ensuring a high common level of protection across the Union. A calibrated full harmonisation of the end-user rights covered by this Directive should considerably increase legal certainty for both end-users and providers of electronic communications services, and should significantly lower entry barriers and unnecessary compliance burden stemming from the fragmentation of the rules. Full harmonisation helps to overcome barriers to the single market

resulting from such national end-user provisions which at the same time protect national providers against competition from other Member States. In order to achieve a high common level of protection, several end-user provisions should be reasonably enhanced in this Directive in the light of best practices in Member States. Full harmonisation of their rights increases the trust of end-users in the internal market as they benefit from an equally high level of protection when using electronic communications services, not only in their Member State but also while living, working or travelling in other Member States. Member States should maintain the possibility to have a higher level of end-user protection where an explicit derogation is provided for in this Directive, and to act in areas not covered by this Directive.

resulting from such national end-user provisions which at the same time protect national providers against competition from other Member States. In order to achieve a high common level of protection, several end-user provisions should be reasonably enhanced in this Directive in the light of best practices in Member States. Full harmonisation of their rights increases the trust of end-users in the internal market as they benefit from an equally high level of protection when using electronic communications services, not only in their Member State but also while living, working or travelling in other Member States. ***Similarly, providers of electronic communications services should be assured that end-user provisions and general authorisation conditions are the same with regard to end-user provisions.*** Member States should maintain the possibility to have a higher level of end-user protection where an explicit derogation is provided for in this Directive, and to act in areas not covered by this Directive.

Or. en

Justification

As Member States may apply conditions to general authorisation, in line with Annex I, it is imperative that those conditions do not contradict the provisions of this title. Such a situation could create a situations of legal uncertainty.

Amendment 30

Proposal for a directive Recital 231

Text proposed by the Commission

(231) Contracts are an important tool for end- users to ensure transparency of information and legal certainty. Most service providers in a competitive environment will conclude contracts with their customers for reasons of commercial

Amendment

(231) Contracts are an important tool for end- users to ensure transparency of information and legal certainty. Most service providers in a competitive environment will conclude contracts with their customers for reasons of commercial

desirability. In addition to the provisions of this Directive, the requirements of existing Union consumer protection legislation relating to contracts, in particular Directive 2011/83/EU of the European Parliament and of the Council on consumer rights³⁹ and Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, apply to consumer transactions relating to electronic communications networks and services.

desirability. In addition to the provisions of this Directive, the requirements of existing Union consumer protection legislation relating to contracts, in particular Directive 2011/83/EU of the European Parliament and of the Council on consumer rights³⁹ and Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, apply to consumer transactions relating to electronic communications networks and services. ***The inclusion of information requirements in this Directive, which might also be required pursuant to Directive 2011/83/EU, should not be lead to duplications of the same information within pre-contractual and contractual documents. Information provided in respect of this Directive, including any more prescriptive and more detailed informational requirements, should be deemed to fulfil any such requirements pursuant to Directive 2011/83/EU.***

³⁹ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

³⁹ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

Or. en

Justification

This seeks to clarify that despite similar information requirements in different Union legislation, this directive should lead to the same information being included in a contract or pre-contractual information twice. The applied of sectoral directives should fulfil the requirements of horizontal directives.

Amendment 31

Proposal for a directive Recital 232

Text proposed by the Commission

(232) Provisions on contracts in this Directive should apply ***irrespective the amount of any payment to be made by the customer. They*** should apply not only to consumers but also to micro and small enterprises as defined in Commission Recommendation 2003/361/EC, whose bargaining position is comparable to that of consumers and which should therefore benefit from the same level of protection. The provisions on contracts, including those contained in Directive 2011/83/EU on consumer rights, should apply automatically to those undertakings unless they prefer negotiating individualised contract terms with providers of electronic communications services. As opposed to micro and small enterprises, larger enterprises usually have stronger bargaining power and do, therefore, not depend on the same contractual information requirements as consumers. Other provisions, such as number portability, which are important also for larger enterprises should continue to apply to all end-users.

Amendment

(232) Provisions on contracts in this Directive should apply ***if any payment is required of an end-user, either at the point of the start of use or potentially in the future as set out in the terms and conditions of a contract, such as via premium services or fees related to excessusage limits. Provisions on contracts in this Directive*** should apply not only to consumers but also to micro and small enterprises as defined in Commission Recommendation 2003/361/EC ***and not-for-profit organisation as defined in Member State law***, whose bargaining position is comparable to that of consumers and which should therefore benefit from the same level of protection. The provisions on contracts, including those contained in Directive 2011/83/EU on consumer rights, should apply automatically to those undertakings unless they prefer negotiating individualised contract terms with providers of electronic communications services. As opposed to micro and small enterprises, larger enterprises usually have stronger bargaining power and do, therefore, not depend on the same contractual information requirements as consumers. Other provisions, such as number portability, which are important also for larger enterprises should continue to apply to all end-users.

Or. en

Justification

If no payment is made by an End-User and there are no potential charges related to this same service contract, due to, for example, over volume limit usage or using 'optional' services, there is no reason that the consumer is in need of this information.

Amendment 32

Proposal for a directive Recital 233

Text proposed by the Commission

(233) The specificities of the electronic communications sector require, beyond horizontal contract rules, a limited number of additional end-user protection provisions. End-users should inter alia be informed of any quality of service levels offered, conditions for promotions and termination of contracts, applicable tariff plans and tariffs for services subject to particular pricing conditions. That information is relevant for **most** publicly available electronic communications services but not for number-independent interpersonal communications services. In order to enable the end-user to make a well-informed choice, it is essential that the required relevant information is provided prior to the conclusion of the contract and in clear and understandable language. For the same reason, providers should present a summary of the essential contract terms. In order to facilitate comparability and reduce compliance cost, **BEREC** should **issue** a template for such contract summaries.

Amendment

(233) The specificities of the electronic communications sector require, beyond horizontal contract rules, a limited number of additional end-user protection provisions. End-users should inter alia be informed of any quality of service levels offered, conditions for promotions and termination of contracts, applicable tariff plans and tariffs for services subject to particular pricing conditions. That information is relevant for publicly available electronic communications services but not for number-independent interpersonal communications services. In order to enable the end-user to make a well-informed choice, it is essential that the required relevant information is provided prior to the conclusion of the contract and in clear and understandable language. For the same reason, providers should present a summary of the essential contract terms. In order to facilitate comparability and reduce compliance cost, **the Commission** should, **after consulting BEREC**, **adopt** a template for such contract summaries.

Or. en

Justification

While BEREC should be consulted, it should be the role of the Commission to draft this template.

Amendment 33

Proposal for a directive Recital 235

Text proposed by the Commission

(235) With respect to terminal equipment,

Amendment

(235) With respect to terminal equipment,

the customer contract should specify any restrictions imposed by the provider on the use of the equipment, such as by way of ‘SIM-locking’ mobile devices, if such restrictions are not prohibited under national legislation, and any charges due on termination of the contract, whether before or on the agreed expiry date, including any cost imposed in order to retain the equipment. Any charges due at early termination for terminal equipment **and other promotional advantages** should be calculated on the basis of customary depreciation methods and on a pro rata temporis basis, respectively.

the customer contract should specify any restrictions imposed by the provider on the use of the equipment, such as by way of ‘SIM-locking’ mobile devices, if such restrictions are not prohibited under national legislation, and any charges due on termination of the contract, whether before or on the agreed expiry date, including any cost imposed in order to retain the equipment. Any charges due at early termination for terminal equipment should be calculated on the basis of customary depreciation methods and on a pro rata temporis basis, respectively. **Member States should, however, be able to apply a maximum compensation rate where such a rate is equal to or less than the pro rata temporis value.**

Or. en

Justification

In order to avoid abuse by providers, Member States should be able to apply caps to this compensation

Amendment 34

Proposal for a directive Recital 240

Text proposed by the Commission

(240) Independent comparison tools should be operationally independent from providers of publicly available electronic communications services. They can be operated by private undertakings, or by or on behalf of competent authorities, however they should be operated in accordance with specified quality criteria including the requirement to provide details of their owners, provide accurate and up-to-date information, state the time of the last update, set out clear, objective criteria on which the comparison will be based and include a broad range of offers on publicly available electronic

Amendment

(240) Independent comparison tools should be operationally independent from providers of publicly available electronic communications services. They can be operated by private undertakings, or by or on behalf of competent authorities, however they should be operated in accordance with specified quality criteria including the requirement to provide details of their owners, provide accurate and up-to-date information, state the time of the last update, set out clear, objective criteria on which the comparison will be based and include a broad range of offers on publicly available electronic

communications services other than number-independent interpersonal communications services, covering a significant part of the market. Member States should be able to determine how often comparison tools are required to review and update the information they provide to end-users, taking into account the frequency with which providers of publicly available electronic communications services other than number-independent interpersonal communications services, generally update their tariff and quality information. Where there is only one tool in a Member State and that tool ceases to operate or ceases to comply with the quality criteria, the Member State should ensure that end-users have access within a reasonable time to another comparison tool at national level.

communications services other than number-independent interpersonal communications services, covering a significant part of the market. ***No service provider should be given favourable treatment in search results other than as based on those clear objective criteria.*** Member States should be able to determine how often comparison tools are required to review and update the information they provide to end-users, taking into account the frequency with which providers of publicly available electronic communications services other than number-independent interpersonal communications services, generally update their tariff and quality information. Where there is only one tool in a Member State and that tool ceases to operate or ceases to comply with the quality criteria, the Member State should ensure that end-users have access within a reasonable time to another comparison tool at national level.

Or. en

Justification

A clarification that no provider should be favour beyond the comparison rules themselves.

Amendment 35

Proposal for a directive Recital 241

Text proposed by the Commission

(241) In order to address public interest issues with respect to the use of publicly available electronic communications services and to encourage protection of the rights and freedoms of others, the competent authorities should be able to produce and have disseminated, with the aid of providers, public interest information related to the use of such services. This could include public interest information regarding the most common

Amendment

(241) In order to address public interest issues with respect to the use of publicly available electronic communications services and to encourage protection of the rights and freedoms of others, the competent authorities should be able to produce and have disseminated, with the aid of providers, public interest information related to the use of such services. This could include public interest information regarding the most common

infringements and their legal consequences, *for instance regarding copyright infringement, other unlawful uses and the dissemination of harmful content*, and advice and means of protection against risks to personal security, which may for example arise from disclosure of personal information in certain circumstances, as well as risks to privacy and personal data, and the availability of easy-to-use and configurable software or software options allowing protection for children or vulnerable persons. The information could be coordinated by way of the cooperation procedure established in this Directive. Such public interest information should be updated whenever necessary and should be presented in easily comprehensible formats, as determined by each Member State, and on national public authority websites. National regulatory authorities should be able to oblige providers to disseminate this standardised information to all their customers in a manner deemed appropriate by the national regulatory authorities. Dissemination of such information should however not impose an excessive burden on *undertakings*. Member States should require this dissemination by the means used by *undertakings* in communications with end-users made in the ordinary course of business.

infringements and their legal consequences, advice and means of protection against risks to personal security, which may for example arise from disclosure of personal information in certain circumstances, as well as risks to privacy and personal data, and the availability of easy-to-use and configurable software or software options allowing protection for children or vulnerable persons. The information could be coordinated by way of the cooperation procedure established in this Directive. Such public interest information should be updated whenever necessary and should be presented in easily comprehensible formats, as determined by each Member State, and on national public authority websites. National regulatory authorities should be able to oblige providers to disseminate this standardised information to all their customers in a manner deemed appropriate by the national regulatory authorities. Dissemination of such information should however not impose an excessive burden on *providers*. Member States should require this dissemination by the means used by *providers* in communications with end-users made in the ordinary course of business.

Or. en

Justification

examples are not needed as already included in the article 96.3(a) itself

Amendment 36

Proposal for a directive Recital 244

Text proposed by the Commission

(244) In order to take full advantage of the competitive environment, consumers should be able to make informed choices and to change providers when it is in their best interest. It is essential to ensure that they are able to do so without being hindered by legal, technical or practical obstacles, including contractual conditions, procedures, charges etc. That does not preclude **undertakings** from setting reasonable minimum contractual periods of up to 24 months in consumer contracts. However, Member States should have the possibility to set a shorter maximum duration in light of national conditions, such as levels of competition and stability of network investments. Independently from the electronic communications service contract, consumers might prefer and benefit from a longer reimbursement period for physical connections. Such consumer commitments can be an important factor in facilitating deployment of very high capacity connectivity networks up to or very close to end-user premises, including through demand aggregation schemes which enable network investors to reduce initial take-up risks. However, the rights of consumers to switch between providers of electronic communications services, as established in this Directive, should not be restricted by such reimbursement periods in contracts on physical connections.

Amendment

(244) In order to take full advantage of the competitive environment, consumers should be able to make informed choices and to change providers when it is in their best interest. It is essential to ensure that they are able to do so without being hindered by legal, technical or practical obstacles, including contractual conditions, procedures, charges etc. That does not preclude **providers** from setting reasonable minimum contractual periods of up to 24 months in consumer contracts. However, Member States should have the possibility to set a shorter maximum duration in light of national conditions, such as levels of competition and stability of network investments **and providers should offer at least one contract of a duration of 12 months or less**. Independently from the electronic communications service contract, consumers might prefer and benefit from a longer reimbursement period for physical connections. Such consumer commitments can be an important factor in facilitating deployment of very high capacity connectivity networks up to or very close to end-user premises, including through demand aggregation schemes which enable network investors to reduce initial take-up risks. However, the rights of consumers to switch between providers of electronic communications services, as established in this Directive, should not be restricted by such reimbursement periods in contracts on physical connections **and such contracts should not cover terminal or internal access equipment, such as handsets, routers or modems**.

Or. en

Justification

This is a clarification that physical connections cannot be used as loophole to the 24 month rule

Amendment 37

Proposal for a directive Recital 245

Text proposed by the Commission

(245) Consumers should be able to terminate their contract without incurring any costs also in cases of automatic prolongation after the expiration of the **initial** contract term.

Amendment

(245) Consumers should be able to terminate their contract without incurring any costs also in cases of automatic prolongation after the expiration of the contract term.

Or. en

Justification

This right should not be limited to "initial" contracts meaning that renewal contracts could be unlimited in duration.

Amendment 38

Proposal for a directive Recital 246

Text proposed by the Commission

(246) Any changes to the contractual conditions **imposed** by providers of publicly available **electronic communications** services **other than number-independent** interpersonal communications services, **to the detriment of the end-user**, for example in relation to charges, tariffs, data volume limitations, data speeds, coverage, or the processing of personal data should be considered as giving rise to the right of the end-user to terminate the contract without incurring any costs, **even if they are combined with some beneficial** changes.

Amendment

(246) Any changes to the contractual conditions **proposed** by providers of publicly available **internet access** services **or number-based** interpersonal communications services, for example in relation to charges, tariffs, data volume limitations, data speeds, coverage, or the processing of personal data should be considered as giving rise to the right of the end-user to terminate the contract without incurring any costs. **Any change to the contractual conditions by the provider should therefore entitle the end-user to terminate the contract unless each change is strictly necessary to implement legislative or regulatory changes, such as new contract information requirements imposed by Union or national law. End-users should be notified of any changes to the contractual conditions in a durable**

medium, such as paper, a USB stick, a CD-ROM, a DVD, a memory card, the hard disk of a computer or an e-mail.

Or. en

Justification

The conditions for a right to withdrawal should be the same in the recital as the article. While 'detriment' and 'benefit' might be grammatically opposes, neither is defined and opens what is allowed to discussion because different wording is used. Moreover, as the duration is limited to 24 months, it should be possible for providers to maintain conditions for those two years. Therefore any change in a contract should give rise to withdraw from a contract.

Amendment 39

Proposal for a directive
Recital 248

Text proposed by the Commission

(248) Number portability is a key facilitator of consumer choice and effective competition in competitive electronic communications markets. End-users who so request should be able to retain their number(s) on the public telephone network independently of the ***undertaking providing*** service. The provision of this facility between connections to the public telephone network at fixed and non-fixed locations is not covered by this Directive. However, Member States may apply provisions for porting numbers between networks providing services at a fixed location and mobile networks.

Amendment

(248) Number portability is a key facilitator of consumer choice and effective competition in competitive electronic communications markets. End-users who so request should be able to retain their number(s) on the public telephone network independently of the ***provider of service and for a limited time between the switching of providers of*** service. The provision of this facility between connections to the public telephone network at fixed and non-fixed locations is not covered by this Directive. However, Member States may apply provisions for porting numbers between networks providing services at a fixed location and mobile networks.

Or. en

Justification

End-users should be able to have time to switch between providers, including a break between contracts

Amendment 40

Proposal for a directive Recital 251

Text proposed by the Commission

(251) Number portability **is a key facilitator of consumer choice and effective competition in competitive markets for electronic communications** and should be implemented with the minimum delay, so that the number is functionally activated within one working day and the **user** does not experience a loss of service lasting longer than one working day. In order to facilitate a one-stop-shop enabling a seamless switching experience for **end-users**, the switching process should be led by the receiving provider of electronic communications to the public. National regulatory authorities may prescribe the global process of the porting of numbers, taking into account national provisions on contracts and technological developments. Experience in certain Member States has shown that there is a risk of consumers being switched to another provider without having given their consent. While that is a matter that should primarily be addressed by law enforcement authorities, Member States should be able to impose such minimum proportionate measures regarding the switching process, including appropriate sanctions, as are necessary to minimise such risks, and to ensure that consumers are protected throughout the switching process without making the process less attractive for them.

Amendment

(251) Number portability should be implemented with the minimum delay, so that the number is functionally activated within one working day and the **end-user** does not experience a loss of service lasting longer than one working day **unless the end-user intentionally and expressly requests another delay**. In order to facilitate a one-stop-shop enabling a seamless switching experience for **end-users**, the switching process should be led by the receiving provider of electronic communications to the public. National regulatory authorities may prescribe the global process of the porting of numbers, taking into account national provisions on contracts and technological developments. **This should include, where feasible, a requirement for the porting to be completed though over-the-air provisioning, unless an end-user requests otherwise**. Experience in certain Member States has shown that there is a risk of consumers being switched to another provider without having given their consent. While that is a matter that should primarily be addressed by law enforcement authorities, Member States should be able to impose such minimum proportionate measures regarding the switching process, including appropriate sanctions, as are necessary to minimise such risks, and to ensure that consumers are protected throughout the switching process without making the process less attractive for them. **The right to port numbers should not be restricted by contractual conditions**.

Or. en

Justification

It is no longer required to change a physical SIM card to change an assigned number. This should be the norm unless an end-user requests otherwise.

Amendment 41

Proposal for a directive
Recital 251 a (new)

Text proposed by the Commission

Amendment

(251a) In order to ensure that switching and porting take place within the time-limits provided for in this Directive, Member States should be able to impose compensational measures from a provider where an agreement with an end-user is not respected. Such measures should be proportionate to the length of the delay in complying with the agreement.

Or. en

Justification

Clear and detailed rules for implementing compensation are needed to ensure that measures are proportional and ensure that providers are prevented from abusing switching requirements.

Amendment 42

Proposal for a directive
Recital 252

Text proposed by the Commission

Amendment

(252) Bundles comprising publicly available electronic communications services other than number-independent interpersonal communications services, and other services such as linear broadcasting, or **goods** such as devices, have become increasingly widespread and are an important element of competition. While they often bring about benefits for **end-users**, they can make switching more difficult or costly and raise risks of

(252) Bundles comprising publicly available electronic communications services other than number-independent interpersonal communications services, and other services such as linear broadcasting, or **terminal equipment** such as devices **offered by the same provider and contracted jointly**, have become increasingly widespread and are an important element of competition. While they often bring about benefits for

contractual "lock-in". Where divergent contractual rules on contract termination and switching apply to the different services, and to any contractual commitment regarding acquisition of products which form part of a bundle, consumers are effectively hampered in their rights under this Directive to switch to competitive offers for the entire bundle or parts of it. The provisions of this Directive regarding contracts, transparency, contract duration and termination and switching should, therefore, apply to all elements of a bundle, except to the extent that other rules applicable to the non-electronic communications elements of the bundle are more favourable to the consumer. Other contractual issues, such as the remedies applicable in the event of non-conformity with the contract, should be governed by the rules applicable to the respective element of the bundle, for instance by the rules of contracts for the sales of goods or for the supply of digital content. For the same reasons consumers should not be locked in with a provider by means of a contractual de facto extension of the *initial* contract period.

consumers, they can make switching more difficult or costly and raise risks of contractual "lock-in". Where divergent contractual rules on contract termination and switching apply to the different services, and to any contractual commitment regarding acquisition of products which form part of a bundle, consumers are effectively hampered in their rights under this Directive to switch to competitive offers for the entire bundle or parts of it. The provisions of this Directive regarding contracts, transparency, contract duration and termination and switching should, therefore, apply to all elements of a bundle, except to the extent that other rules applicable to the non-electronic communications elements of the bundle are more favourable to the consumer. Other contractual issues, such as the remedies applicable in the event of non-conformity with the contract, should be governed by the rules applicable to the respective element of the bundle, for instance by the rules of contracts for the sales of goods or for the supply of digital content. For the same reasons consumers should not be locked in with a provider by means of a contractual de facto extension of the contract period.

Or. en

Justification

The protections of Article 100 should be limited to consumers and the term 'good' should be clarified to mean terminal equipment as the term 'good' should be too wide for such a legal requirement.

Amendment 43

Proposal for a directive Recital 254

Text proposed by the Commission

(254) In line with the objectives of the Charter *of Fundamental Rights of the*

Amendment

(254) In line with the objectives of the Charter and the United Nations Convention

European Union and the United Nations Convention on the Rights of Persons with Disabilities, the regulatory framework should ensure that all *users*, including *disabled end-users*, the elderly, and users with special social needs, have easy access to affordable high quality services. Declaration 22 annexed to the final Act of Amsterdam provides that the institutions of the Union shall take account of the needs of persons with a disability in drawing up measures under Article 114 of the TFEU.

on the Rights of Persons with Disabilities, the regulatory framework should ensure that all *end-users*, including *end-users with disabilities*, the elderly, and users with special social needs, have easy access to affordable high quality services *regardless of their place of residence within the Union*. Declaration 22 annexed to the final Act of Amsterdam provides that the institutions of the Union shall take account of the needs of persons with a disability in drawing up measures under Article 114 of the TFEU.

Or. en

Justification

updated to align better to other text (e-privacy)

Amendment 44

Proposal for a directive Recital 255

Text proposed by the Commission

(255) End-users should be able to access emergency services through emergency communications free of charge and without having to use any means of payment, from any device which enables number-based interpersonal communications services, including when using roaming services in a Member State. Emergency communications are means of communication, that include not only voice communications but also SMS, messaging, video or other types of communications, that are enabled in a Member State to access emergency services. Emergency communication can be triggered on behalf of a person by the eCall in-vehicle system as defined by Regulation 2015/758/EU of the European Parliament and of the Council⁴¹.

Amendment

(255) End-users should be able to access emergency services through emergency communications free of charge and without having to use any means of payment, from any device which enables number-based interpersonal communications services, including when using roaming services in a Member State. Emergency communications are means of communication, that include not only voice communications but also SMS, messaging, video or other types of communications, that are enabled in a Member State to access emergency services. Emergency communication can be triggered on behalf of a person by the eCall in-vehicle system as defined by Regulation 2015/758/EU of the European Parliament and of the Council⁴¹. ***It should, however, be for the Member States to decide which interpersonal communications services***

are appropriate for emergency services, including the possibility to limit those options to voice communications and their equivalent for end-users with disabilities or to add additional options as agreed with national PSAPs.

⁴¹ Regulation 2015/758/EU of the European Parliament and of the Council concerning type-approval requirements for the eCall in-vehicle system based on the 112 service and amending Directive 2007/46/EC(OJ L 123, 19.5.2015, p. 77)

⁴¹ Regulation 2015/758/EU of the European Parliament and of the Council concerning type-approval requirements for the eCall in-vehicle system based on the 112 service and amending Directive 2007/46/EC(OJ L 123, 19.5.2015, p. 77)

Or. en

Justification

It should be clear that dispute the definition of emergency communications being so wide as to cover almost everything, including emails and faxes, that it is for the Member States with their PSAPs to decide what means are correct to access 112

Amendment 45

Proposal for a directive Recital 256

Text proposed by the Commission

(256) Member States should ensure that **undertakings providing** end-users with number-based interpersonal communications services provide reliable and accurate access to emergency services, taking into account national specifications and criteria. Where the number-based interpersonal communications service is not provided over a connection which is managed to give a specified quality of service, the service provider might not be able to ensure that emergency calls made through their service are routed to the most appropriate PSAP with the same reliability. For such network-independent **undertakings**, namely **undertakings** which are not integrated with a public communications network provider,

Amendment

(256) Member States should ensure that **providers of** end-users with number-based interpersonal communications services provide reliable and accurate access to emergency services, taking into account national specifications and criteria. Where the number-based interpersonal communications service is not provided over a connection which is managed to give a specified quality of service, the service provider might not be able to ensure that emergency calls made through their service are routed to the most appropriate PSAP with the same reliability. For such network-independent **providers**, namely **providers** which are not integrated with a public communications network provider, providing caller location

providing caller location information may not always be technically feasible. Member States should ensure that standards ensuring accurate and reliable routing and connection to the emergency services are implemented as soon as possible in order to allow network-independent providers of number-based interpersonal communications services to fulfil the obligations related to access to emergency services and caller location information provision at a level comparable to that required of other providers of such communications services.

information may not always be technically feasible. Member States should ensure that standards ensuring accurate and reliable routing and connection to the emergency services are implemented as soon as possible in order to allow network-independent providers of number-based interpersonal communications services to fulfil the obligations related to access to emergency services and caller location information provision at a level comparable to that required of other providers of such communications services. ***Until such a time, such providers should inform end-users that when access to 112 or to caller location information is not supported.***

Or. en

Justification

If a number based interpersonal communication service cannot support 112, it should inform its users in some way.

Amendment 46

Proposal for a directive Recital 257

Text proposed by the Commission

(257) Member States should take specific measures to ensure that emergency services, including ‘112’, are equally accessible to ***disabled end-users***, in particular deaf, hearing-impaired, speech-impaired and deaf-blind users. This could involve the provision of special terminal devices for hearing-impaired users, text relay services, or other specific equipment.

Amendment

(257) Member States should take specific measures to ensure that emergency services, including ‘112’, are equally accessible to ***end-users with disabilities***, in particular deaf, hearing-impaired, speech-impaired and deaf-blind users. This could involve the provision of special terminal devices for hearing-impaired users, text ***and video*** relay services, or other specific equipment.

Or. en

Justification

reflects in the text that relay services are no longer only text, but video as well.

Amendment 47

Proposal for a directive Recital 260

Text proposed by the Commission

(260) In order to respond to technological developments concerning accurate caller location information, equivalent access for **disabled** end-users and call routing to the most appropriate PSAP, the Commission should be empowered to adopt measures necessary to ensure the compatibility, interoperability, quality and continuity of emergency communications in the Union. Those measures may consist of functional provisions determining the role of various parties within the communications chain, for example interpersonal communications service providers, electronic communications network operators and PSAPs, as well as technical provisions determining the technical means to fulfil the functional provisions. Such measures should be without prejudice to the organisation of emergency services of Member States.

Amendment

(260) In order to respond to technological developments concerning accurate caller location information, equivalent access for end-users **with disabilities** and call routing to the most appropriate PSAP, the Commission should be empowered to adopt measures necessary to ensure the compatibility, interoperability, quality and continuity of emergency communications in the Union. Those measures may consist of functional provisions determining the role of various parties within the communications chain, for example **number-based** interpersonal communications service providers, electronic communications network operators and PSAPs, as well as technical provisions determining the technical means to fulfil the functional provisions. Such measures should be without prejudice to the organisation of emergency services of Member States.

Or. en

Justification

The Article only applies to number-based ICS and therefore the wording of the recital should reflect this.

Amendment 48

Proposal for a directive Recital 261

Text proposed by the Commission

(261) In order to ensure that **disabled end-users** benefit from competition and the choice of service providers enjoyed by the

Amendment

(261) In order to ensure that **end-users with disabilities** benefit from competition and the choice of service providers enjoyed

majority of end-users, relevant national authorities should specify, where appropriate and in light of national conditions, consumer protection requirements for *disabled end-users* to be met by *undertakings providing* publicly available electronic communications services. Such requirements can include, in particular, that *undertakings* ensure that *disabled end-users* take advantage of their services on equivalent terms and conditions, including prices, tariffs and quality, as those offered to their other end-users, irrespective of any additional costs incurred by these *undertakings*. Other requirements can relate to wholesale arrangements between *undertakings*. In order to avoid creating an excessive burden on service providers national regulatory authorities should verify, whether the objectives of equivalent access and choice can actually be achieved without such measures.

by the majority of end-users, relevant national authorities should specify, where appropriate and in light of national conditions, consumer protection requirements for *end-users with disabilities* to be met by *providers of* publicly available electronic communications services *and terminal equipment*. Such requirements can include, in particular, that *providers* ensure that *end-users with disabilities* take advantage of their services on equivalent terms and conditions, including prices, tariffs and quality, *and access to terminal equipment* as those offered to their other end-users, irrespective of any additional costs incurred by these *providers*. Other requirements can relate to wholesale arrangements between *providers*. In order to avoid creating an excessive burden on service providers national regulatory authorities should verify, whether the objectives of equivalent access and choice can actually be achieved without such measures.

Or. en

Justification

terminal equipment references are added

Amendment 49

Proposal for a directive Recital 262

Text proposed by the Commission

(262) In addition to the affordability measures for disabled users set out in this Directive, Directive xxx/YYYY/EU of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services sets out several compulsory

Amendment

deleted

requirements for the harmonisation of a number of accessibility features for disabled users of electronic communications services and related consumer terminal equipment. Therefore the corresponding obligation in this Directive that required Member States to encourage the availability of terminal equipment for disabled users has become obsolete and should be repealed.

Or. en

Justification

Reference to the European Accessibility Act is amended in light of the inclusion of parts of the EAA text within the EECC. This should not prevent the final EAA agreement including an amending act which removes or alters the text adopted here in order to ensure that persons with disability receive full and non-conflicting coverage by both pieces of Union law.

Amendment 50

**Proposal for a directive
Recital 262 a (new)**

Text proposed by the Commission

Amendment

(262a) National regulatory authorities should ensure that undertakings providing publicly available electronic communications services make available information about the functioning of the services offered and about its accessibility characteristics in an accessible format. This means that the information content should be available in text formats that could be used to generate alternative assistive format and alternatives to non-text content.

Or. en

Justification

Additional recital to match the changes as to service requirements for end-users with disabilities

Amendment 51

Proposal for a directive Recital 262 b (new)

Text proposed by the Commission

Amendment

(262b) With regard to end-users with disabilities, this Directive should seek to reflect other Union law implementing the United Nations Convention of the Rights of Persons with Disabilities. Those measures include the principles and standards set out in Directive (EU) 2016/2102 of the European Parliament and of the Council ^{1a}. The four principles of accessibility are: perceivability, meaning that information and user interface components must be presentable to users in ways they can perceive; operability, meaning that user interface components and navigation must be operable; understandability, meaning that information and the operation of the user interface must be understandable; and robustness, meaning that content must be robust enough to be interpreted reliably by a wide variety of user agents, including assistive technologies. Those principles of accessibility are translated into testable success criteria, such as those forming the basis of the European standard EN 301 549 V1.1.2 'Accessibility requirements suitable for public procurement of ICT products and services in Europe' (2015-04) (European standard EN 301 549 V1.1.2 (2015-04)), via harmonised standards and a common methodology to test the conformity of content on websites and mobile applications with those principles. That European standard was adopted on the basis of mandate M/376 issued by the Commission to the European standardisation organisations. Pending publication of the references to harmonised standards, or of parts thereof, in the Official Journal of the European Union, the relevant clauses of European standard EN 301 549 V1.1.2 (2015-04)

should be considered as the minimum means of putting those principles into practice in regards to this Directive and equivalent access and choice for end-users with disabilities.

^{1a} Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (OJ L 327, 2.12.2016, p. 1).

Or. en

Justification

This recital ensures that there is a common understanding of the technique standards that apply in terms of this directive in regards to equivalents for disabled end-users.

Amendment 52

**Proposal for a directive
Recital 265**

Text proposed by the Commission

(265) End-users should be able to enjoy a guarantee of interoperability in respect of all equipment sold in the Union for the reception of digital television. Member States should be able to require minimum harmonised standards in respect of such equipment. Such standards could be adapted from time to time in the light of technological and market developments.

Amendment

(265) End-users should be able to enjoy a guarantee of interoperability in respect of all equipment sold in the Union for the reception of digital **radio and** television. Member States should be able to require minimum harmonised standards in respect of such equipment. Such standards could be adapted from time to time in the light of technological and market developments.

Or. en

Justification

Radio terminal equipment should also be included within this scope as 'must carry' requirements cover both television and radio broadcasts

Amendment 53

Proposal for a directive Recital 266

Text proposed by the Commission

(266) It is desirable to enable consumers to achieve the fullest connectivity possible to digital television sets. Interoperability is an evolving concept in dynamic markets. Standards bodies should do their utmost to ensure that appropriate standards evolve along with the technologies concerned. It is likewise important to ensure that connectors are available on digital television sets that are capable of passing all the necessary elements of a digital signal, including the audio and video streams, conditional access information, service information, application program interface (API) information and copy protection information. This Directive should therefore ensure that the functionality associated to and/or implemented in connectors is not limited by network operators, service providers or equipment manufacturers and continue to evolve in line with technological developments. For display and presentation of connected television services, the realisation of a common standard through a market-driven mechanism is recognised as a consumer benefit. Member States and the Commission may take policy initiatives, consistent with the Treaty, to encourage this development.

Amendment

(266) It is desirable to enable consumers to achieve the fullest connectivity possible to digital **radio and** television sets. Interoperability is an evolving concept in dynamic markets. Standards bodies should do their utmost to ensure that appropriate standards evolve along with the technologies concerned. It is likewise important to ensure that connectors are available on digital television sets that are capable of passing all the necessary elements of a digital signal, including the audio and video streams, conditional access information, service information, application program interface (API) information and copy protection information. This Directive should therefore ensure that the functionality associated to and/or implemented in connectors is not limited by network operators, service providers or equipment manufacturers and continue to evolve in line with technological developments. For display and presentation of connected television services, the realisation of a common standard through a market-driven mechanism is recognised as a consumer benefit. Member States and the Commission may take policy initiatives, consistent with the Treaty, to encourage this development.

Or. en

Justification

idem

Amendment 54

Proposal for a directive Recital 269

Text proposed by the Commission

(269) Member States should be able to lay down proportionate obligations on undertakings under their jurisdiction, in the interest of legitimate public policy considerations, but such obligations should only be imposed where they are necessary to meet general interest objectives clearly defined by Member States in conformity with Union law and should be proportionate and transparent. ‘Must carry’ obligations may be applied to specified radio and television broadcast channels and complementary services supplied by a specified media service provider. Obligations imposed by Member States should be reasonable, that is they should be proportionate and transparent in the light of clearly defined general interest objectives. Member States should provide an objective justification for the ‘must carry’ obligations that they impose in their national law so as to ensure that such obligations are transparent, proportionate and clearly defined. The obligations should be designed in a way which provides sufficient incentives for efficient investment in infrastructure. Obligations should be subject to periodic review at least every five years in order to keep them up-to-date with technological and market evolution and in order to ensure that they continue to be proportionate to the objectives to be achieved. Obligations could, where appropriate, entail a provision for proportionate remuneration.

Amendment

(269) Member States should be able to lay down proportionate **‘must carry’** obligations on undertakings under their jurisdiction, in the interest of legitimate public policy considerations, but such obligations should only be imposed where they are necessary to meet general interest objectives clearly defined by Member States in conformity with Union law and should be proportionate and transparent. ‘Must carry’ obligations may be applied to specified radio and television broadcast channels and complementary services supplied by a specified media service provider. Obligations imposed by Member States should be reasonable, that is they should be proportionate and transparent in the light of clearly defined general interest objectives. Member States should provide an objective justification for the ‘must carry’ obligations that they impose in their national law so as to ensure that such obligations are transparent, proportionate and clearly defined. The obligations should be designed in a way which provides sufficient incentives for efficient investment in infrastructure. Obligations should be subject to periodic review at least every five years in order to keep them up-to-date with technological and market evolution and in order to ensure that they continue to be proportionate to the objectives to be achieved. Obligations could, where appropriate, entail a provision for proportionate remuneration.

Or. en

Justification

As the Commission proposal removes the first sentence of this recital, it must be made clear that we are referring to ‘must carry’ obligations and not other obligations under this directive.

Amendment 55

Proposal for a directive Recital 269 a (new)

Text proposed by the Commission

Amendment

(269a) Since the majority of consumer digital television and radio equipment in use today accepts both analogue and digital transmissions, there is no longer an economic or a social reason for Member States to continue to impose 'must carry' obligations on both analogue and digital transmissions. Moreover, the removal of analogue obligations, while maintaining digital ones, will make available more spectrum for data supporting connected TV Services and electronic programme guides as well as other data, internet and broadcasting services. This, however, should not preclude such analogue transmission obligations where the majority of users still use an analogue channel or where the analogue broadcast is the sole means of broadcast.

Or. en

Justification

There is no reason for a Member State to continue to impose 'must carry' obligations for the majority of analogue transmissions.

Amendment 56

Proposal for a directive Article 1 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where the provisions of this Directive concerning end-users' rights are in conflict with the provisions of Directive (EU) .../...⁺, this Directive shall prevail, with the exception of number-independent

interpersonal communication services, for which Directive (EU) .../....⁺ shall prevail.

^{1a} OJ: Please insert the number of Directive COD 2015/0287.

Or. en

Justification

In order to prevent a legal conflict of the rules which apply to communications services, which might also qualify as digital content or qualify in parts, it is necessary to clarify which legislation prevails. This should clear in both directive, Article 3 of the DCD and here. This amendment maybe withdrawn based on the negotiations of the final Parliament position on the DCD.

Amendment 57

Proposal for a directive

Article 2 – paragraph 1 – point 31 a (new)

Text proposed by the Commission

Amendment

(31a) 'public pay telephone' means a telephone available to the general public, for the use of which the means of payment may include coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes;

Or. en

Justification

As the term is used in Article 102, the definition should not be deleted

Amendment 58

Proposal for a directive

Article 2 – paragraph 1 – point 32

Text proposed by the Commission

Amendment

(32) 'voice communications' means a service made available to the public for originating and receiving, directly or

(32) 'voice communications' means a service made available to the public for originating and receiving, directly or

indirectly, national or national and international calls through a number or numbers in a national or international telephone numbering plan;

indirectly, national or national and international calls through a number or numbers in a national or international telephone numbering plan, ***including non-audio communications for end-users with disabilities, such as real time text and text based and video based relay services;***

Or. en

Justification

clarifies that voice communications includes equivalent services for end-users with disabilities

Amendment 59

**Proposal for a directive
Article 2 – paragraph 1 – point 35 a (new)**

Text proposed by the Commission

Amendment

(35a) ‘relay services’ means phone services operated by interpreters that enable people who are deaf or hard of hearing or who have a speech impairment, to communicate by phone through an interpreter that uses text or sign language with a person who can hear in a manner that is functionally equivalent to the ability of an individual without a disability;

Or. en

Amendment 60

**Proposal for a directive
Article 2 – paragraph 1 – point 36 a (new)**

Text proposed by the Commission

Amendment

(36a) ‘real time text’ means communication using the transmission of text where characters are transmitted by a terminal as they are typed in such a way

that the communication is perceived by the user as being continuous;

Or. en

Amendment 61

Proposal for a directive

Article 2 – paragraph 1 – point 37

Text proposed by the Commission

(37) ‘emergency communication’: communication by means of interpersonal communications services between an end-user and the PSAP with the goal to request and receive emergency relief from emergency services;

Amendment

(37) ‘emergency communication’: communication by means of ***voice communication services and relevant interpersonal communications services*** between an end-user and the PSAP with the goal to request and receive emergency relief from emergency services;

Or. en

Justification

As voice communication (e.g. a telephone subscription) is defined as separate from interpersonal communication both terms should be included. While a recital states that voice communication is a subject of interpersonal communication, this is not clear in the article. The word 'relevant' is also added because while some services (voice, SMS and other services that are connected to a telephone subscription) might be supported by emergency services, other interpersonal communication means, such as email or online chats, are not feasible means to connect emergency services,

Amendment 62

Proposal for a directive

Article 2 – paragraph 1 – point 38 a (new)

Text proposed by the Commission

Amendment

(38a) ‘caller location information’ means in a public mobile network the data processed, both from network infrastructure and handset-derived, indicating the geographic position of an end-user's mobile terminal and in a public fixed network the data about the

physical address of the termination point.

Or. en

Justification

No definition of caller location information is included in the Code. This definition is a modified version of the definition under Commission Recommendation of 25 July 2003 on the processing of caller location information in electronic communication networks for the purpose of location-enhanced emergency call services. It should be underlined that "Caller" does not limit its meaning to voice communication alone in line with the definition of "call".

Amendment 63

Proposal for a directive

Article 5 – paragraph 1 – subparagraph 2 – indent 6

Text proposed by the Commission

- ensuring consumer protection and end-user rights in the electronic communications sector;

Amendment

- ensuring consumer protection and end-user rights in the electronic communications sector, ***including equal access and choice for end-users with disabilities;***

Or. en

Justification

consumer protection includes end-users with disabilities

Amendment 64

Proposal for a directive

Article 25 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that ***consumers have access to transparent, non-discriminatory, simple, fast, fair and inexpensive out-of-court procedures for their unresolved disputes with undertakings providing*** publicly available electronic communications services other than number-independent interpersonal communications services, ***arising under this Directive and relating to the***

Amendment

1. Member States shall ensure that ***disputes arising under this Directive, relating to the contractual conditions and/or performance of contracts concerning the supply of*** publicly available electronic communications services other than number-independent interpersonal communications services, ***and which involve an provider of such services established on their respective***

contractual conditions and/or performance of contracts concerning the supply of those networks and/or services. Member States shall enable the national regulatory authority to act as a dispute settlement entity. Such procedures shall comply with the quality requirements set out in Chapter II of Directive 2013/11/EU. Member States may grant access to such procedures to other end-users, in particular micro and small enterprises.

territories and a consumer not resident in the Union, can be submitted to the national regulatory authority. The national regulatory authority shall offer an independent, impartial, transparent, effective, fast and fair alternative dispute resolution procedure. Chapter II of Directive 2013/11/EU shall apply to that procedure mutatis mutandis. Member States may extend access to that procedure to end-users other than consumers, in particular micro and small enterprises.

Or. en

Justification

As explained in the recital, ADR already applies to telecommunication consumers, therefore this article only applies to non-EU resident and if Member State decide, other end-users. This new text makes this clear

Amendment 65

Proposal for a directive Article 25 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that their legislation does not hamper the establishment of complaints offices and the provision of online services at the appropriate territorial level to facilitate access to dispute resolution by consumers and other end-users. ***For disputes involving consumers and falling within the scope of Regulation (EU) 524/2013, the provisions of that Regulation shall apply provided that the dispute settlement entity concerned has been notified to the Commission under Article 20 of Directive 2013/11/EU.***

Amendment

2. Member States shall ensure that their legislation does not hamper the establishment of complaints offices and the provision of online services at the appropriate territorial level to facilitate access to dispute resolution by consumers and other end-users. ***Where the national regulatory authority has been listed in accordance with Article 20(2) of Directive 2013/11/EU, the provisions of Regulation (EU) 524/2013 shall apply to disputes as referred to in paragraph 1 that stem from online contracts.***

Or. en

Justification

Clarification of legal language

Amendment 66

Proposal for a directive Article 55 – paragraph 2

Text proposed by the Commission

2. Competent authorities shall not prevent providers of public communications networks or publicly available electronic communications services from allowing access to their networks to the public, through radio local area networks, which may be located at an end-user's premises, subject to compliance with the applicable general authorisation conditions and the prior informed agreement of the end-user.

Amendment

2. Competent authorities shall not prevent providers of public communications networks or publicly available electronic communications services from allowing access to their networks to the public, through radio local area networks, which may be located at an end-user's premises, subject to compliance with the applicable general authorisation conditions and the prior informed agreement ***and express consent*** of the end-user.

Or. en

Justification

an end-user should not by default or otherwise open their network to third parties without explicit consent

Amendment 67

Proposal for a directive Article 55 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Providers shall ensure that such access to third parties is not detrimental to the conditions of an end-user's own access and shall ensure that the information continues to comply with the requirements provided for in Article 95.

Or. en

Justification

The download and upload speeds of an end-user might be affected if access is granted to third parties who use up an exceed amount of bandwidth. Therefore providers should ensure that

such granting of access does not lead to lower data transfer rates than set out in the offer and contract for the end-user's IAS.

Amendment 68

Proposal for a directive

Article 55 – paragraph 3 – subparagraph 2

Text proposed by the Commission

To that end, providers of public communications networks or publicly available electronic communications services **shall** make available and actively offer, clearly and transparently, products or specific offers allowing its end-users to provide access to third parties through a radio local area network.

Amendment

To that end, providers of public communications networks or publicly available electronic communications services **may** make available and actively offer, clearly and transparently, products or specific offers allowing its end-users, **upon request** to provide access to third parties through a radio local area network.
Liability for actions carried out by a third-party though such access to an end-user's RLAN equipment shall be borne by the provider and those third-parties that seek access.

Or. en

Justification

An end-user should not be liable for the actions which they do not control. If a provider asks that they give access, the provider must bear the risk.

Amendment 69

Proposal for a directive

Article 59 – paragraph 1 – subparagraph 2 – point c

Text proposed by the Commission

(c) in justified cases, obligations on providers of number-independent interpersonal communications services to make their services interoperable, namely where access to emergency services or end-to-end connectivity between end-users is endangered due to a lack of interoperability between interpersonal communications services.

Amendment

deleted

Justification

This point is unnecessary and counter to the principle of reserving the use of implementing and delegated acts to items which does not fundamentally change a body of a legislation. The potential requirements of (c) should be either included under the whole ordinary legislative procedure or not at all.

Amendment 70**Proposal for a directive****Article 59 – paragraph 1 – subparagraph 3**

Text proposed by the Commission

Amendment

The obligations referred to in point (c) of the second subparagraph may only be imposed: **deleted**

(i) to the extent necessary to ensure interoperability of interpersonal communications services and may include obligations relating to the use and implementation of standards or specifications listed in Article 39(1) or of any other relevant European or international standards; and

(ii) where the Commission, on the basis of a report that it had requested from BEREC, has found an appreciable threat to effective access to emergency services or to end-to-end connectivity between end-users within one or several Member States or throughout the European Union and has adopted implementing measures specifying the nature and scope of any obligations that may be imposed, in accordance with the examination procedure referred to in Article 110(4).

Justification

directly related to amendment on Paragraph 1(1)(c)

Amendment 71

Proposal for a directive Article 79 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that all **end-users** in their territory have access at an affordable price, in the light of specific national conditions, to **available functional** internet access and voice communications services at the quality specified in their territory, including the underlying connection, at least at a fixed location.

Amendment

1. Member States shall ensure that all **consumers** in their territory have access at an affordable price, in the light of specific national conditions, to **an available** internet access and voice communications services at the quality specified in their territory, including the underlying connection, at least at a fixed location.

Or. en

Justification

Universal Service is designed for the social welfare of private consumers. It is not a tool for providing access for businesses or other legal persons, therefore the term 'end-users' is not corrected for Title I. The Term 'functional' is not defined or needed. An internal access service is defined and covers all potential offerings under Universal service. 'Functional' seems only as a replacement for the word 'minimum' and that is set out in paragraph 2.

Amendment 72

Proposal for a directive Article 79 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall also ensure affordability of services not provided at a fixed location, where they deem this to be necessary to ensure a consumer's full social and economic participation in society.

Or. en

Justification

This is included into recital 196, but should also be included into the article

Amendment 73

Proposal for a directive Article 79 – paragraph 2

Text proposed by the Commission

2. *Member States* shall define the **functional** internet access service referred to in paragraph 1 with a view to **adequately** reflect services used by the majority of **end-users** in their territory. To that end, the **functional** internet access service shall be capable of supporting the minimum set of services set out in Annex V.

Amendment

2. **In accordance with BEREC guidelines, national regulatory authorities** shall define the **minimum functionality of the** internet access service referred to in paragraph 1 with a view to reflect **the** services used by the majority of **consumers** in their territory **or relevant parts of their territory**. To that end, the internet access service shall be capable of supporting **at least** the minimum set of services set out in Annex V.

Or. en

Justification

Member States may choose to define internet access service functionality on the basis of regional averages instead of whole Member States, which might lower average speeds for some, while for others might magnify an average beyond what infrastructure can support, especially in under populated rural areas. At the same time, it is necessary to the inclusion of a minimum set of services in annex V does not mean that services should be limited to those services alone and that EU rules on Net neutrality fully apply, this is made clear in the matching recital.

Amendment 74

Proposal for a directive Article 79 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

By ... [18 months after the date of entry into force of this Directive], BEREC shall, in order to contribute towards a consistent application of this Article, after consulting stakeholders and in close cooperation with the Commission, taking into account available Commission (Eurostat) data, adopt guidelines on the minimum quality of service requirements, including minimum bandwidth, necessary

for an internet access service to support at least the minimum set of services set out in Annex V, based on the average use of such services by a majority of the population. Those guidelines shall be updated annually to reflect technological advances and changes in consumer usage patterns.

Or. en

Justification

BEREC should set out guidelines on how to translate the annex V into practical quality of service requirements.

Amendment 75

**Proposal for a directive
Article 79 – paragraph 3**

Text proposed by the Commission

3. When *an end-user* so requests, the connection referred to in *paragraph 1* may be limited to support voice communications only.

Amendment

3. When *a consumer* so requests, the connection referred to in *paragraphs 1 and 1a* may be limited to support voice communications only.

Or. en

(linked to amendment on paragraph 1a.)

Justification

see paragraph 1a

Amendment 76

**Proposal for a directive
Article 80 – paragraph 1**

Text proposed by the Commission

1. National regulatory authorities shall monitor the evolution and level of retail tariffs of services identified in Article 79(1) available on the market, in particular in relation to national prices and national

Amendment

1. National regulatory authorities shall monitor the evolution and level of retail tariffs of services identified in Article 79(1) available on the market, in particular in relation to national prices and national

end-user income.

consumer income.

Or. en

Justification

Universal Service is designed for the social welfare of private consumers.

Amendment 77

**Proposal for a directive
Article 80 – paragraph 2**

Text proposed by the Commission

2. Where Member States establish that, in the light of national conditions, retail prices for services identified in Article 79(1) are not affordable, because low-income or special social needs *end-users* are prevented from accessing such services, they *may* require *undertakings which provide* such services to offer to those *end-users* tariff options or packages different from those provided under normal commercial conditions. To that end, Member States may require such undertakings to apply common tariffs, including geographic averaging, throughout the territory. Member States shall ensure that *end-users* entitled to such tariff options or packages have a right to contract with an undertaking providing the services identified in Article 79(1) *and* that such undertaking provides them with an adequate period of availability of a number and avoid unwarranted disconnection of service.

Amendment

2. Where Member States establish that, in the light of national conditions, retail prices for services identified in Article 79(1) are not affordable, because low-income or special social needs *consumers* are prevented from accessing such services, they *shall* require *providers of* such services to offer to those *consumers* tariff options or packages different from those provided under normal commercial conditions. To that end, Member States may require such undertakings to apply common tariffs, including geographic averaging, throughout the territory. Member States shall ensure that *consumers* entitled to such tariff options or packages have a right to contract with an undertaking providing the services identified in Article 79(1). *Member States shall also ensure* that such undertaking provides them with an adequate period of availability of a number and avoid unwarranted disconnection of service.

Or. en

Justification

If retail prices are found to be unaffordable then the Member States should act.

Amendment 78

Proposal for a directive Article 80 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that undertakings which provide tariff options or packages to low-income or special social needs **end-users** pursuant to paragraph 2, keep the national regulatory authorities informed of the details of such offers. National regulatory authorities shall ensure that the conditions under which undertakings provide tariff options or packages pursuant to paragraph 2 are fully transparent and are published and applied in accordance with the principle of non-discrimination. National regulatory authorities may require that specific schemes be modified or withdrawn.

Amendment

3. Member States shall ensure that undertakings which provide tariff options or packages to low-income or special social needs **consumers** pursuant to paragraph 2, keep the national regulatory authorities informed of the details of such offers. **Without prejudice on the freedom of the consumer to choose any provider,** national regulatory authorities shall ensure that the conditions under which undertakings provide tariff options or packages pursuant to paragraph 2 are fully transparent and are published and applied in accordance **with Article 92 and** with the principle of non-discrimination. National regulatory authorities may require that specific schemes be modified or withdrawn.

Or. en

Justification

Universal Service is designed for the social welfare of private consumers plus a cross reference is added

Amendment 79

Proposal for a directive Article 80 – paragraph 4

Text proposed by the Commission

4. Member States may, in the light of national conditions, ensure that support is provided to low-income or special social needs **end-users** in view of ensuring affordability of **functional** internet access and voice communications services at least at a fixed location.

Amendment

4. Member States may, in the light of national conditions, ensure that **further** support is provided to low-income or special social needs **consumers** in view of ensuring affordability of internet access and voice communications services at least at a fixed location. **Member States may also ensure support is provided to low-**

income or special social needs consumers for mobile services, where they deem this to be necessary to ensure a consumer's full social and economic participation in society.

Or. en

Justification

While it is implied by the Commission's original text, it should be made clear that if a member state wishes to provide support for mobile internet and voice services instead of or in addition to fixed location service, it can do so.

Amendment 80

**Proposal for a directive
Article 80 – paragraph 5**

Text proposed by the Commission

5. Member States shall ensure, in the light of national conditions, that support is provided as appropriate to *end-users* with disabilities, *or* that other specific measures are taken, in view of ensuring that related terminal equipment, specific equipment and specific services enhancing equivalent access are affordable.

Amendment

5. Member States shall ensure, in the light of national conditions, that support is provided as appropriate to *consumers* with disabilities, *and* that other specific measures are taken, in view of ensuring that related terminal equipment *is accessible for persons with disabilities, and* specific equipment and specific services enhancing equivalent access are *available and* affordable. *The average cost of the relay services for consumers with disabilities shall be equal to that of voice communication services pursuant to Article 79.*

Or. en

Justification

Costs for persons with disabilities who access Universal Service tariffs should be equal to normal users as set out in the recitals. This merely adds it to the article.

Amendment 81

**Proposal for a directive
Article 81 – paragraph 1**

Text proposed by the Commission

1. Where a Member State has **duly demonstrated**, account taken of the results of the geographical survey conducted in accordance with Article 22(1), that the availability at a fixed location of **functional** internet access service as defined in accordance with Article 79(2) and of voice communications service cannot be ensured under normal commercial circumstances or through other potential public policy tools, it may impose appropriate universal service obligations to meet all reasonable requests for accessing those services in its territory.

Amendment

1. Where a Member State has **established**, account taken of the results of the geographical survey conducted in accordance with Article 22(1), that the availability at a fixed location of internet access service as defined in accordance with Article 79(2) and of voice communications service cannot be ensured under normal commercial circumstances or through other potential public policy tools **in its national territory or different parts thereof**, it may impose appropriate universal service obligations to meet all reasonable requests for accessing those services in **the relevant parts of** its territory.

Or. en

Justification

Availability requirements might be need in some regions and not in others as shown in the geographical survey and therefore public policy tools might also be regionally applied. this amendments just clarified this fact.

Amendment 82

**Proposal for a directive
Article 81 – paragraph 2**

Text proposed by the Commission

2. Member States shall determine the most efficient and appropriate approach for ensuring the availability at a fixed location of **functional** internet access service as defined in accordance with Article 79(2) and of voice communications service, whilst respecting the principles of objectivity, transparency, non-discrimination and proportionality. They shall seek to minimise market distortions, in particular the provision of services at prices or subject to other terms and conditions which depart from normal

Amendment

2. Member States shall determine the most efficient and appropriate approach for ensuring the availability at a fixed location of internet access service as defined in accordance with Article 79(2) and of voice communications service, whilst respecting the principles of objectivity, transparency, non-discrimination and proportionality. ***This may include making available internet access service and voice communications service via a mobile provider with coverage at a fixed location.*** They shall seek to minimise market

commercial conditions, whilst safeguarding the public interest.

distortions, in particular the provision of services at prices or subject to other terms and conditions which depart from normal commercial conditions, whilst safeguarding the public interest.

Or. en

Justification

While it is implied by the Commission's original text, it should be made clear that if it is cheaper to provide mobile coverage (via the creation of a mandated radio antenna tower) instead of physical wired infrastructure to fixed locations, this should be possible. In some cases, a single mobile radio antenna serving multiple users, including non-USO users, can be more cost-efficient than serving one or more reasonable USO requests alone.

Amendment 83

Proposal for a directive Article 81 – paragraph 4

Text proposed by the Commission

4. When Member States designate **undertakings** in part or all of the national territory as **undertakings** having the obligation to ensure the availability at a fixed location of **functional** internet access service as defined in accordance with Article 79(2) and of voice communications service, they shall do so using an efficient, objective, transparent and non-discriminatory designation mechanism, whereby no **undertaking** is a priori excluded from being designated. Such designation methods shall ensure **that functional** internet access and voice communications services at a fixed location are provided in a cost-effective manner and may be used as a means of determining the net cost of the universal service obligation in accordance with Article 84.

Amendment

4. When Member States designate **providers** in part or all of the national territory as **providers** having the obligation to ensure the availability at a fixed location of internet access service as defined in accordance with Article 79(2) and of voice communications service, they shall do so using an efficient, objective, transparent and non-discriminatory designation mechanism, whereby no **provider** is a priori excluded from being designated. Such designation methods shall ensure, **while taking into account the additional costs related to services for consumers with disabilities, that** internet access and voice communications services at a fixed location are provided in a cost-effective manner and may be used as a means of determining the net cost of the universal service obligation in accordance with Article 84.

Or. en

Justification

Being cost-effective should not mean that consumers with disabilities are not offered equal access because it would be more costly.

Amendment 84

Proposal for a directive Article 81 – paragraph 5

Text proposed by the Commission

5. When *an undertaking* designated in accordance with paragraph 3 intends to dispose of a substantial part or all of its local access network assets to a separate legal entity under different ownership, it shall inform in advance the national regulatory authority in a timely manner, in order to allow that authority to assess the effect of the intended transaction on the provision at a fixed location of *functional* internet access service as defined in accordance with Article 79(2) and of voice communications service. The national regulatory authority may impose, amend or withdraw specific obligations in accordance with Article 13(2).

Amendment

5. When *a provider* designated in accordance with paragraph 3 intends to dispose of a substantial part or all of its local access network assets to a separate legal entity under different ownership, it shall inform in advance the national regulatory authority in a timely manner, in order to allow that authority to assess the effect of the intended transaction on the provision at a fixed location of internet access service as defined in accordance with Article 79(2) and of voice communications service. The national regulatory authority may impose, amend or withdraw specific obligations in accordance with Article 13(2).

Or. en

Justification

see above amendments

Amendment 85

Proposal for a directive Article 82 – paragraph 1

Text proposed by the Commission

Member States may continue to ensure the availability or affordability of other services than *functional* internet access service as defined in accordance with Article 79(2) and voice communications service at a fixed location that were in

Amendment

Member States may continue *until ... [nine years after the date of transposition of this Directive]* to ensure the availability or affordability of other services than internet access service as defined in accordance with Article 79(2) and voice

force prior to [set date], if the need for such services is **duly demonstrated** in the light of national circumstances. When Member States designate **undertakings** in part or all of the national territory for the provision of those services, Article 81 shall apply. Financing of these obligations shall comply with Article 85.

communications service at a fixed location that were in force prior to [set date], if the need for such services is **established** in the light of national circumstances. When Member States designate **providers** in part or all of the national territory for the provision of those services, Article 81 shall apply. Financing of these obligations shall comply with Article 85.

Or. en

Justification

USO for public payphones, directories and directory enquiry services should be phrased-out as the unneeded even in rural communities. But Member States should be given time to do so if needed.

Amendment 86

**Proposal for a directive
Article 82 – paragraph 2**

Text proposed by the Commission

Member States shall review the obligations imposed pursuant to this Article **at the latest** 3 years after the entry into force of this Directive and thereafter once every **year**.

Amendment

Member States shall review the obligations imposed pursuant to this Article **by ... [3 years after the entry into force of this Directive]** and thereafter **no more than once every three years**.

Or. en

Justification

There is no need to do this every year

Amendment 87

**Proposal for a directive
Article 83 – paragraph 1**

Text proposed by the Commission

1. Member States shall ensure that in providing facilities and services additional to those referred to in Article 79, **those undertakings providing the** services in

Amendment

1. Member States shall ensure that in providing facilities and services additional to those referred to in Article 79, **providers of the voice communications and internet**

accordance with Article 79, 81 and 82 establish terms and conditions in such a way that the end-user is not obliged to pay for facilities or services which are not necessary or not required for the service requested.

access services in accordance with Article 79, 81 and 82 establish terms and conditions in such a way that the end-user is not obliged to pay for facilities or services which are not necessary or not required for the service requested.

Or. en

Justification

technical amendment

Amendment 88

**Proposal for a directive
Article 83 – paragraph 2**

Text proposed by the Commission

2. Member States shall ensure that those **undertakings providing the** voice communications services referred to in Article 79 and implemented pursuant to Article 80 provide the specific facilities and services set out in Annex VI, Part A, in order that **end-users** can monitor and control expenditure and put in place a system to avoid unwarranted disconnection of voice communications service for the **end-users** who are entitled thereto, including an appropriate mechanism to check continued interest in using the service.

Amendment

2. Member States shall ensure that those **providers of** voice communications services referred to in Article 79 and implemented pursuant to Article 80 provide the specific facilities and services set out in Annex VI, Part A, in order that **consumers** can monitor and control expenditure and put in place a system to avoid unwarranted disconnection of voice communications service for the **consumers** who are entitled thereto, including an appropriate mechanism to check continued interest in using the service.

Or. en

Justification

end-user to consumer

Amendment 89

**Proposal for a directive
Article 84 – paragraph 1 – subparagraph 1**

Text proposed by the Commission

Where national regulatory authorities consider that the provision of **functional** internet access service as defined in accordance with Article 79(2) and of voice communications service; as set out in Articles 79, 80 and 81 or the continuation of existing universal services as set out in Article 82 may represent an unfair burden on **undertakings providing** such services and requesting for compensation, they shall calculate the net costs of its provision.

Amendment

Where national regulatory authorities consider that the provision of internet access service as defined in accordance with Article 79(2) and of voice communications service as set out in Articles 79, 80 and 81 or the continuation of existing universal services as set out in Article 82 may represent an unfair burden on **providers of** such services and requesting for compensation, they shall calculate the net costs of its provision.

Or. en

Justification

Removal of the word functional, see earlier reasoning

Amendment 90

Proposal for a directive

Article 84 – paragraph 1 – subparagraph 2 – point a

Text proposed by the Commission

(a) calculate the net cost of the universal service obligation, taking into account any market benefit which accrues to **an undertaking providing functional** internet access service as defined in accordance with Article 79(2) and voice communications service; as set out in Articles 79, 80 and 81 or the continuation of existing universal services as set out in Article 82, in accordance with Annex VII ; or

Amendment

(a) calculate the net cost of the universal service obligation, taking into account any market benefit which accrues to **a provider of** internet access service as defined in accordance with Article 79(2) and voice communications service; as set out in Articles 79, 80 and 81 or the continuation of existing universal services as set out in Article 82, in accordance with Annex VII ; or

Or. en

Justification

Removal of the word functional, see earlier reasoning

Amendment 91

Proposal for a directive Article 86 – paragraph 1

Text proposed by the Commission

1. Where the net cost of universal service obligations is to be calculated in accordance with Article 85, national regulatory authorities shall ensure that the principles for net cost calculation, including the details of methodology to be used are publicly available.

Amendment

1. Where the net cost of universal service obligations is to be calculated in accordance with Article 84, national regulatory authorities shall ensure that the principles for net cost calculation, including the details of methodology to be used are publicly available.

Or. en

Justification

Technical correction

Amendment 92

Proposal for a directive Article 87 – paragraph 6

Text proposed by the Commission

6. Member States shall promote the over –the-air provisioning of numbering resources, - where technically feasible - to facilitate change of providers of electronic communications networks or services by end-users *other than consumers*, in particular providers and users of machine-to-machine services..

Amendment

6. Member States shall promote the over –the-air provisioning of numbering resources, - where technically feasible - to facilitate change of providers of electronic communications networks or services by end-users, in particular providers and users of machine-to-machine services.

Or. en

Justification

There is no reason to limit this option to non-consumers. Linked to amendments on Article 99

Amendment 93

Proposal for a directive Article 90

Text proposed by the Commission

Amendment

Article 90

deleted

The missing children hotline number

1. Member States shall ensure that citizens have access to a service operating a hotline to report cases of missing children. The hotline shall be available on the number '116000'.

2. Member States shall ensure that disabled end-users are able to access services provided under the number '116000' to the greatest extent possible. Measures taken to facilitate disabled end-users' access to such services whilst travelling in other Member States shall be based on compliance with relevant standards or specifications published in accordance with Article 39.

Or. en

Justification

Move to after Article 102. It is wrongly placed in Title II

Amendment 94

**Proposal for a directive
Article -92 (new)**

Text proposed by the Commission

Amendment

Article -92

Scope

Unless otherwise provided, number-independent interpersonal communication services shall not fall within the scope of Articles 93 to 108.

(This should be placed after the title of TITLE III. If adopted, references to "other than number-independent" would be removed)

Justification

The parts of this title in regards for number-independent interpersonal communication services are already covered by other EU legislation or are not appropriate for such services. In order to prevent the same services to be subject to double regulation, they should be excluded here. NB: This amendment should not prejudice the rapporteur from changing this proposal in light of the final adopted DCD text.

Amendment 95**Proposal for a directive
Article 92 – paragraph 1***Text proposed by the Commission*

Providers of electronic communications networks or services shall not apply any discriminatory requirements or conditions of access or use to end-users based on the end-user's nationality or place of residence unless such differences are objectively justified.

Amendment

Providers of electronic communications networks or services shall not apply any discriminatory requirements or conditions of access or use to end-users ***in the Union*** based on the end-user's nationality or place of residence ***or establishment*** unless such differences are objectively justified.

Or. en

Justification

The term 'end-user' includes businesses and therefore this clause should not be limited to physical B2C relationships, but clearly cover B2B relationships as well in line with the Services Directive and other EU non-discrimination legislation. Therefore the place of establishment is added

Amendment 96**Proposal for a directive
Article 92 b (new)***Text proposed by the Commission**Amendment****Article 92 b******Intra-Union calls***

1. Providers of publicly available number based interpersonal communication services shall not apply tariffs to intra-Union fixed and mobile

communications services terminating in another Member State that are different from tariffs for services terminating in the same Member State, unless the provider demonstrates the existence of direct costs that are objectively justified.

2. By ... [six months after the date of entry into force of this Directive], BEREC shall adopt guidelines on the recovery of such objectively justified direct costs pursuant to paragraph 1.

Or. en

Justification

While the end of roaming will improve the situation of Europeans moving throughout the Union, it does not address the issue of international rates which are in no way related to actual costs for providers nor reflect a normal profit margin. Such abuses should be addressed. This text, based on the Parliament's already adopted first reading position on the TSM regulation is updated to fit the structure of this code. It in no way fixes a single EU tariff which remain flexible and purely based on individual Member States national pricing schemes.

Amendment 97

Proposal for a directive Article 93 – paragraph 1

Text proposed by the Commission

1. National measures regarding end-users' access to, or use of, services and applications through electronic communications networks shall respect **the** fundamental rights and freedoms, as guaranteed by the Charter of Fundamental Rights of the Union and general principles of Union law.

Amendment

1. National measures regarding end-users' access to, or use of, services and applications through electronic communications networks shall respect fundamental rights and freedoms, as guaranteed by the Charter of Fundamental Rights of the Union (**'the Charter'**) and general principles of Union law.

Or. en

Justification

technical formatting amendment (no legislative effect)

Amendment 98

Proposal for a directive Article 93 – paragraph 2

Text proposed by the Commission

2. Any *of these* measures regarding end-users' access to, or use of, services and applications through electronic communications networks liable to **restrict those fundamental** rights or freedoms may only be imposed if they are provided for by law and respect **the essence of** those rights or freedoms, are appropriate, proportionate and necessary, and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others in line with Article 52(1) of the Charter **of Fundamental Rights of the European Union** and with general principles of Union law, including effective judicial protection and due process. Accordingly, these measures may only be taken with due respect for the principle of the presumption of innocence and the right to privacy. A prior, fair and impartial procedure shall be guaranteed, including the right to be heard of the person or persons concerned, subject to the need for appropriate conditions and procedural arrangements in duly substantiated cases of urgency in conformity with the Charter **of Fundamental Rights of the European Union**. The right to effective and timely judicial review shall be guaranteed.

Amendment

2. Any measures regarding end-users' access to, or use of, services and applications through electronic communications networks liable to **limit the exercise of** rights or freedoms **recognised by the Charter** may only be imposed if they are provided for by law and respect those rights or freedoms, are appropriate, proportionate, and necessary, and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others in line with Article 52(1) of the Charter and with general principles of Union law, including **the right to an** effective judicial protection and due process. Accordingly, these measures may only be taken with due respect for the principle of the presumption of innocence and the right to privacy. A prior, fair and impartial procedure shall be guaranteed, including the right to be heard of the person or persons concerned, subject to the need for appropriate conditions and procedural arrangements in duly substantiated cases of urgency in conformity with the Charter. The right to effective and timely judicial review shall be guaranteed.

Or. en

Justification

clarification of wording

Amendment 99

Proposal for a directive Article 94 – paragraph 1

Text proposed by the Commission

Member States shall not maintain or introduce in their national law end-user protection provisions on the subject-matters covered by this Title and diverging from the provisions laid down in this Title, including more or less stringent provisions to ensure a different level of protection, unless otherwise provided for in this Title.

Amendment

Member States shall not maintain or introduce in their national law end-user protection provisions **or general authorisation conditions** on the subject-matters covered by this Title and diverging from the provisions laid down in this Title, including more or less stringent provisions to ensure a different level of protection, unless otherwise provided for in this Title.

Or. en

Justification

As Member States may apply conditions to general authorisation, in line with Annex I, it is imperative that those conditions do not contradict the provisions of this title. Such a situation could create a situations of legal uncertainty.

Amendment 100

Proposal for a directive

Article 95 – paragraph 1 – introductory part

Text proposed by the Commission

1. Before a consumer is bound by a contract or any corresponding offer, providers of publicly available **electronic communications** services **other than number-independent** interpersonal communications services, shall provide **the information required pursuant to Articles 5 and 6 of Directive 2011/83/EU, irrespective of the amount of any payment to be made, and the following information** in a clear and comprehensible manner:

Amendment

1. **Without prejudice to the relevant information requirements laid down in Articles 5 and 6 of Directive 2011/83/EU,** before a consumer is bound by a contract or any corresponding offer **which is subject to remuneration or potential remuneration**, providers of publicly available **internet access** services **and number-based** interpersonal communications services, shall provide, **where applicable, the following information to the consumer** in a clear and comprehensible manner **on a durable medium**:

Or. en

Justification

If no payment is made by an End-User and there are no potential charges related to this same

service contract, due to, for example, over volume limit usage or using 'optional' services, there is no reason that the consumer is in need of this information. As is made clear in Recital 16, monetised data and advertising can be seen as remuneration

Amendment 101

Proposal for a directive

Article 95 – paragraph 1 – point a – point i – introductory part

Text proposed by the Commission

(i) any minimum service quality levels to the extent that these are offered, and in accordance with BEREC guidelines to be adopted after consultation of stakeholders and in close cooperation with the Commission, regarding:

Amendment

(i) any minimum service quality levels to the extent that these are offered, and in accordance with BEREC guidelines to be adopted ***pursuant Article 97(2)***, after consultation of stakeholders and in close cooperation with the Commission, regarding:

Or. en

Justification

clarification on which BEREC guidelines is referenced

Amendment 102

Proposal for a directive

Article 95 – paragraph 1 – point c – point i

Text proposed by the Commission

(i) details of tariff plans under the contract and, where applicable, the volumes of communications (MB, minutes, SMS) included per billing period, and the price for additional communication units,

Amendment

(i) details of tariff plans under the contract and, where applicable, the volumes of communications (MB, minutes, SMS) included per billing period, ***the period of time for which the volumes of communications are valid*** and the price for additional communication units,

Or. en

Justification

It should be clear how long calling/SMS/Data credits are valid for. Most users do not consume their full allotment for a month. Consumers should now if they can carry over credits to the next month or longer.

Amendment 103

Proposal for a directive

Article 95 – paragraph 1 – point c – point i a (new)

Text proposed by the Commission

Amendment

(ia) *available facilities to safeguard bill transparency and monitor the level of consumption,*

Or. en

Justification

The requirements of paragraph 6 should be included in this pre-contractual information.

Amendment 104

Proposal for a directive

Article 95 – paragraph 3

Text proposed by the Commission

Amendment

3. Paragraphs 1 and 2 shall apply also to micro or small enterprises as end-users unless they have *explicitly* agreed to waive all or parts of those provisions,

3. Paragraphs 1 and 2 shall apply also to micro or small enterprises *and not-for-profit organisations* as end-users unless they have *expressly* agreed to waive all or parts of those provisions,

Or. en

Justification

Non-for-Profits should also be given this right.

Amendment 105

Proposal for a directive

Article 95 – paragraph 5 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

By [entry into force + 12 months], *BEREC shall issue a decision on* a contract summary template, which identifies the main elements of the information requirements in accordance with

By [entry into force + 12 months], *the Commission, after consulting BEREC, shall adopt* a contract summary template, which identifies the main elements of the information requirements in accordance

paragraphs 1 and 2. Those main elements shall include at least complete information on:

with paragraphs 1 and 2. Those main elements shall include at least complete information on:

Or. en

Justification

The Commission, not BEREC, should be issuing this template

Amendment 106

Proposal for a directive

Article 95 – paragraph 5 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

That template shall not be longer than one single-sided A4 page. It shall be in an easily readable typeface. Where a number of different services are bundled into a single contract, additional pages may be necessary, but the document shall be limited to a total of three pages.

Or. en

Justification

The size of the summary must be limited in order to prevent the summary becoming a duplication of the underlining contract and therefore defeating the benefit.

Amendment 107

Proposal for a directive

Article 95 – paragraph 5 – subparagraph 1 b (new)

Text proposed by the Commission

Amendment

The Commission may adopt an implementing act specifying the template referred to in this paragraph. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 110(4).

Or. en

Justification

As the earlier amendment to article 95.5 requests the Commission to adopt the template, this gives the Commission the power to do so.

Amendment 108

Proposal for a directive

Article 95 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Providers subject to the obligations under paragraphs 1-4 shall duly complete this contract summary template with the ***required*** information and provide it to consumers, ***and*** micro and small enterprises, ***prior to the conclusion of the contract. The contract summary shall become an integral part*** of the contract.

Amendment

Providers subject to the obligations under paragraphs 1-4 shall duly complete this contract summary template with the ***applicable*** information and provide it to consumers, micro and small enterprises ***and not-for-profit organisations prior to the conclusion*** of the contract.

Or. en

Justification

The last sentence is moved to new paragraph, but the content is maintained.

Amendment 109

Proposal for a directive

Article 95 – paragraph 5 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The information referred to in paragraphs 1 to 5, including the contract summary, shall constitute an integral part of the contract.

Or. en

Justification

For Legal certainty. Information which is provided before the signing a contract must be the same as the information within the terms of the contracts, or this would be a misleading and unfair business practice. This amendment prevents this.

Amendment 110

Proposal for a directive Article 96 – paragraph 1

Text proposed by the Commission

1. National regulatory authorities shall ensure that the information referred to in Annex VIII is published in a clear, comprehensive and easily accessible form by the ***undertakings providing publicly available electronic communications services other than number-independent interpersonal communications services***, or by the national regulatory authority itself. National regulatory authorities may specify additional requirements regarding the form in which such information is to be published.

Amendment

1. National regulatory authorities shall ensure that the information referred to in Annex VIII is published in a clear, comprehensive, ***machine-readable*** and easily accessible form, ***including in particular for end-users with disabilities***, by the ***providers of internet access services and providers of publicly available number-based*** interpersonal communications services, or by the national regulatory authority itself. National regulatory authorities may specify additional requirements regarding the form in which such information is to be published.

Or. en

Justification

There is a need to ensure coverage of persons with disabilities and therefore this is included and the Annex VIII is also amended.

Amendment 111

Proposal for a directive Article 96 – paragraph 2 – subparagraph 2 – point b

Text proposed by the Commission

(b) clearly disclose ***their*** owners and operators;

Amendment

(b) clearly disclose ***the*** owners and operators ***of the comparison tool***;

Or. en

Justification

technical amendment

Amendment 112

Proposal for a directive

Article 96 – paragraph 2 – subparagraph 2 – point g a (new)

Text proposed by the Commission

Amendment

(ga) include prices and tariffs, and the quality of service performance for both end-users who are businesses and end-users who are consumers.

Or. en

Justification

This tools should benefit both consumers and other end-users. All information should be comparable, even if not available to all end-users at the same time, even if only a means of transparency.

Amendment 113

Proposal for a directive

Article 96 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

Comparison tools fulfilling the requirements in points (a) to (g) shall, upon request, be certified by national regulatory authorities. Third parties shall have a right to use, free of charge, the information published by ***undertakings providing publicly available electronic communications services, other than number-independent*** interpersonal communications services, for the purposes of making available such independent comparison tools.

Comparison tools fulfilling the requirements in points (a) to (g) shall, upon ***the request of the provider of the tool***, be certified by national regulatory authorities. Third parties shall have a right to use, free of charge, the information published by ***providers of internet access services or publicly available number-based*** interpersonal communications services for the purposes of making available such independent comparison tools.

Or. en

Justification

technical clarification of who is making the request to be certified.

Amendment 114

Proposal for a directive

Article 96 – paragraph 3 – introductory part

Text proposed by the Commission

3. Member States may require that the **undertakings providing** internet access services **or** publicly available number-based interpersonal communications services distribute public interest information free of charge to existing and new end-users, where appropriate, by the same means as those they ordinarily use in their communications with end-users. In such a case, that public interest information shall be provided by the relevant public authorities in a standardised format and shall, inter alia, cover the following topics:

Amendment

3. Member States may require that the **providers of** internet access services, publicly available number-based interpersonal communications services, **or both**, distribute public interest information free of charge to existing and new end-users, where appropriate, by the same means as those they ordinarily use in their communications with end-users. In such a case, that public interest information shall be provided by the relevant public authorities in a standardised format and shall, inter alia, cover the following topics:

Or. en

Justification

technical amendment, a Member State can require both IASs and NB ICS to share the same information with their clients

Amendment 115

Proposal for a directive

Article 97 – paragraph 1

Text proposed by the Commission

1. National regulatory authorities may require providers of internet access services and of publicly available **number-based interpersonal** communications services to publish comprehensive, comparable, reliable, user-friendly and up-to-date information for end-users on the quality of their services and on measures taken to ensure equivalence in access for disabled end-users. That information shall, on request, be supplied to the national regulatory authority in advance of its publication.

Amendment

1. National regulatory authorities may require providers of internet access services and of publicly available **voice** communications services to publish comprehensive, comparable, reliable, user-friendly and up-to-date information for end-users on the quality of their services and on measures taken to ensure equivalence in access for disabled end-users. That information shall, on request, be supplied to the national regulatory authority in advance of its publication.

Amendment 116**Proposal for a directive****Article 97 – paragraph 2 – subparagraph 2***Text proposed by the Commission*

By [entry into force plus 18 months], in order to contribute to a consistent application of this paragraph, BEREC shall adopt, after consultation of stakeholders and in close cooperation with the Commission, guidelines **on** the relevant quality of service parameters, including parameters relevant for **disabled** end-users, the applicable measurement methods, the content and format of publication of the information, and quality certification mechanisms.

Amendment

By [entry into force plus 18 months], in order to contribute to a consistent application of this paragraph **and of Annex IX**, BEREC shall adopt, after consultation of stakeholders and in close cooperation with the Commission, guidelines **detailing** the relevant quality of service parameters, including parameters relevant for end-users **with disabilities**, the applicable measurement methods, the content and format of publication of the information, and quality certification mechanisms.

Or. en

*Justification**technical corrections***Amendment 117****Proposal for a directive****Article 98 – paragraph 1 – subparagraph 1***Text proposed by the Commission*

Member States shall ensure that conditions and procedures for contract termination are not a disincentive against changing service provider and that contracts concluded between consumers and **undertakings providing** publicly available electronic communications services, other than number-independent interpersonal communications services, do not mandate **an initial** commitment period longer than 24 months. Member States may adopt or maintain shorter maximum durations for

Amendment

Member States shall ensure that conditions and procedures for contract termination are not a disincentive against changing service provider and that contracts concluded between consumers and **providers of** publicly available electronic communications services, other than number-independent interpersonal communications services, do not mandate **a** commitment period longer than 24 months. Member States may adopt or maintain shorter maximum durations for

the *initial* commitment period.

the commitment period. *Member States may also require that providers offer consumers the possibility to subscribe to a contract with a maximum duration of 12 months or less.*

Or. en

Justification

This is the reintroduction of an obligation deleted.

Amendment 118

**Proposal for a directive
Article 98 – paragraph 1 – subparagraph 2**

Text proposed by the Commission

This paragraph shall not apply to the duration of an instalment contract where the consumer has agreed in a separate contract to instalment payments for deployment of a physical connection.

Amendment

This paragraph shall not apply to the duration of an instalment contract where the consumer has agreed in a separate contract to instalment payments for deployment of a physical connection *to very high capacity connectivity networks. An instalment contract for the deployment of a physical connection shall not include terminal equipment or internet access service equipment, such as a router or modem.*

Or. en

Justification

This is a clarification that physical connections cannot be used as loophole to the 24 month rule. This is intend for VHC network connects. It is not intended for handsets, routers or modems.

Amendment 119

**Proposal for a directive
Article 98 – paragraph 2**

Text proposed by the Commission

2. Where a contract or national law provides for a fixed duration contract to be

Amendment

2. Where a contract or national law provides for a fixed duration contract to be

automatically prolonged, the Member State shall ensure that, after ***the expiration of the initial period and unless the consumer has explicitly agreed to the extension of the contract***, consumers are entitled to terminate the contract at any time with a one-month notice period and without incurring any costs except the ***cost of providing*** the service during the notice period.

automatically prolonged, the Member State shall ensure that, after ***such an automatic prolongation***, consumers are entitled to terminate the contract at any time with a ***maximum*** one-month notice period and without incurring any costs except the ***charges for receiving*** the service during the notice period.

Or. en

Justification

providers should be allowed to accept a shorter notice period if they so choose. Moreover, if we have an automatic prolongation, there is no need for the rest of sentence. a consumer can always sign a new or modified contract if the consumer so wishes with or without this wording

Amendment 120

Proposal for a directive

Article 98 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Paragraphs 1 and 2 shall also apply to end-users that are micro and small enterprises or not-for-profit organisations unless they have expressly agreed to waive those provisions.

Or. en

Justification

Some end-users are businesses and therefore should be free to agree to different terms

Amendment 121

Proposal for a directive

Article 98 – paragraph 3

Text proposed by the Commission

Amendment

3. End-users shall have the right to terminate their contract without incurring

3. End-users shall have the right to terminate their contract without incurring

any costs upon notice of changes in the contractual conditions proposed by the provider of publicly available electronic communications services other than number-independent interpersonal communications services, unless the proposed changes are *exclusively to the benefit of the end-user or they are* strictly necessary to implement legislative or regulatory changes. Providers shall notify end-users, at least one month in advance, of any *such change*, and shall inform them at the same time of their right to terminate their contract without incurring any costs if they do not accept the new conditions. Member States shall ensure that notification is made in a clear and comprehensible manner on a durable medium and in a format chosen by the end-user at the time of concluding the contract.

any costs upon notice of changes in the contractual conditions proposed by the provider of publicly available electronic communications services other than number-independent interpersonal communications services, unless the proposed changes are strictly necessary to implement legislative or regulatory changes. Providers shall notify end-users, at least one month in advance, of any *change in the contractual conditions*, and shall inform them at the same time of their right to terminate their contract without incurring any costs if they do not accept the new conditions. Member States shall ensure that notification is made in a clear and comprehensible manner on a durable medium and in a format chosen by the end-user at the time of concluding the contract.

Or. en

Justification

It is impossible to define what is exclusively to the benefit of the end-user. While a lowering of a price might, the changing of channels might not be. Moreover, as contracts are limited to 24 months, it should be possible for a provider to maintain a contract for that period. Therefore, any change should lead to a right to withdraw.

Amendment 122

Proposal for a directive Article 98 – paragraph 4

Text proposed by the Commission

4. Where an *early termination of* a contract *on* a publicly available electronic communications service *by the end-user is possible in accordance with* this Directive, other provisions of Union law or national law, no compensation shall be due *by* the end-user *other than for the pro rata temporis value of subsidised* equipment bundled *with the contract* at the moment of the contract conclusion *and a pro rata temporis reimbursement for any other*

Amendment

4. Where an *end-user has the right to terminate* a contract *for* a publicly available electronic communications service *before the end of the agreed contract term pursuant to* this Directive, other provisions of Union law or national law, no compensation shall be due *to* the end-user. *Where the end-user chooses to retain terminal* equipment bundled at the moment of the contract conclusion, *any compensation due shall not exceed its pro*

promotional advantages marked as such at the moment of the contract conclusion.

Any restriction on the usage of terminal equipment on other networks shall be lifted, free of charge, by the provider at the latest upon payment of such compensation.

rata temporis value. Member States may choose to apply a maximum compensation rate, where such a rate is equal to or less than the pro rata temporis value. Any restriction on the usage of terminal equipment on other networks shall be lifted, free of charge, by the provider at the latest upon payment of such compensation.

Or. en

Justification

The inclusion of the undefined concept of 'special promotional price' would leave the door open for abusive by providers who could made early termination unaffordable and in some case, punitive on the end-users.

Amendment 123

Proposal for a directive

Article 99 – paragraph 1 – subparagraph 1

Text proposed by the Commission

In case of switching between providers of internet access services, the providers concerned shall provide the end-user with adequate information before and during the switching process and ensure continuity of the service. The receiving provider shall ensure that the activation of the service shall occur on the date agreed with the end-user. The transferring provider shall continue to provide its services on the same terms until the services of the receiving provider are activated. Loss of service during the switching process shall not exceed one working day.

Amendment

In *the* case of switching between providers of internet access services, the providers concerned shall provide the end-user with adequate information before and during the switching process and ensure continuity of the service. The receiving provider shall ensure that the activation of the service shall occur on the date *and within the timeframe (morning, afternoon, evening) expressly* agreed with the end-user. The transferring provider shall continue to provide its services on the same terms until the services of the receiving provider are activated. Loss of service during the switching process shall not exceed one working day *where both providers use the same technological means. Where the providers use different technological means, they shall endeavour to limit loss of service during the switching process to one working day, unless a longer period, which shall not exceed two working days, is duly justified.*

Justification

Switching between an ADSL provider to another ADSL provider should be fully possible within one working day. Switching between an ADSL to a Cable provider might require a longer switching process. But this should be the exception, not the rule. When activation requires installation of infrastructure, it is not only the date, but also the timeframe during that day that is needed for the end-user to be present to allow the switching process. Providers should be required to give a timeframe (Morning, Afternoon, etc.)

Amendment 124**Proposal for a directive****Article 99 – paragraph 2 a (new)***Text proposed by the Commission**Amendment*

2a. Where an end-user terminates a contract with a provider, the end-user shall retain the right to port a number to another provider for one year after the date of termination, unless that right is renounced by the end-user. Upon renouncement or one year after termination of the contract, the number shall return to the provider or the national telephone numbering plan for reassignment unless it is ported to another provider.

Or. en

Justification

It is possible that an end-user does not seek to simultaneously terminate one provider and to engage a new provider. Therefore the end-user should be granted a period of non-usage before a number is reassigned to another user.

Amendment 125**Proposal for a directive****Article 99 – paragraph 5 – subparagraph 1***Text proposed by the Commission**Amendment*

5. Porting of numbers and their subsequent activation shall be carried out

5. Porting of numbers and their subsequent activation shall be carried out

within the shortest possible time. In any case, end-users who have concluded an agreement to port a number to a new undertaking shall have that number activated within one working day from the conclusion of such an agreement.

within the shortest possible time. In any case, end-users who have concluded an agreement to port a number to a new undertaking shall have that number activated within one working day from the conclusion of such an agreement, ***unless the end-user expressly requests a different delay.***

Or. en

Justification

An end-user should be able to choose a date of porting within a contract. But it should be clear that the default option is one day

Amendment 126

Proposal for a directive

Article 99 – paragraph 5 – subparagraph 2

Text proposed by the Commission

The receiving provider shall lead the switching and porting process. National regulatory authorities may establish the global process of switching and of porting of numbers, taking into account national provisions on contracts, technical feasibility and the need to maintain continuity of service to the end-user. In any event, loss of service during the process of porting shall not exceed one working day. In case of failure of the porting process, the transferring provider shall reactivate the number of the end-user until the porting is successful. National regulatory authorities shall also take appropriate measures ensuring that end-users are adequately informed and protected throughout the switching ***process*** and are not switched to another provider against their will.

Amendment

The receiving provider shall lead the switching and porting process ***and both the receiving and transferring providers shall cooperate in good faith.*** National regulatory authorities may establish the global process of switching and of porting of numbers, taking into account national provisions on contracts, technical feasibility and the need to maintain continuity of service to the end-user. ***This shall include, where feasible, a requirement for the porting to be completed though over-the-air provisioning, unless an end-user requests otherwise.***

In any event, loss of service during the process of porting shall not exceed one working day. In case of failure of the porting process, the transferring provider shall reactivate the number of the end-user until the porting is successful. National

regulatory authorities shall also take appropriate measures ensuring that end-users are adequately informed and protected throughout the switching **and porting processes** and are not switched to another provider against their will.

Or. en

Justification

It is no longer required to change a physical SIM card to change an assigned number. This should be the norm unless an end-user requests otherwise.

Amendment 127

**Proposal for a directive
Article 99 – paragraph 6**

Text proposed by the Commission

6. Member States shall ***ensure that appropriate sanctions on undertakings are provided for, including an obligation to compensate end-users in case of delay in porting or abuse of porting by them or on their behalf.***

Amendment

6. Member States shall ***lay down rules ensuring that any end-user who has suffered material or non-material damage as a result of an infringement of national provisions adopted pursuant to this Directive has the right to receive compensation from the infringer for the damage suffered, unless the infringer proves that it is not in any way responsible for the event giving rise to the damage.***

Or. en

Justification

Clear and detailed rules for implementing compensation are needed to ensure that measures are proportional and ensure that providers are prevented from abusing switching requirements.

Amendment 128

**Proposal for a directive
Article 99 – paragraph 6 a (new)**

Text proposed by the Commission

Amendment

6a. *Member States shall ensure that end-users are entitled to receive compensation from providers in the case of delay. The minimum compensation shall be:*

(a) where porting is delayed for longer than one working day as laid down in Article 99(5), EUR [xx] per additional day;

(b) where there is a loss of service exceeding [two working days], EUR [xx] per additional day;

(c) where there is a delay in activating a service, EUR [xx] per day for every day after the agreed day for activation; and

(d) where a service appointment is missed or cancelled with less than [24] hours' notice, EUR [xx] per appointment.

Or. en

Justification

Clear and detailed rules for implementing compensation are needed to ensure that measures are proportional and ensure that providers are prevented from abusing switching requirements.

Amendment 129

Proposal for a directive Article 99 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

6b. *The compensation referred to in paragraph 6a shall be paid automatically, by way of deduction from the following invoice, in cash, by electronic transfer or, in agreement with the end-user, in service vouchers.*

Or. en

Justification

Clear and detailed rules for implementing compensation are needed to ensure that measures are proportional and ensure that providers are prevented from abusing switching requirements.

Amendment 130

Proposal for a directive

Article 99 – paragraph 6 c (new)

Text proposed by the Commission

Amendment

6c. Paragraph 6a shall be without prejudice to any right to further compensation pursuant to paragraph 1 or under national law. The minimum compensation paid pursuant to paragraph 6a may be deducted from any such compensation. Payment of compensation pursuant to paragraph 6a shall not prevent the receiving provider from seeking compensation from a transferring provider where appropriate.

Or. en

Justification

Clarification that this does not restrict the rights of consumers under other pieces of national legislation nor between providers.

Amendment 131

Proposal for a directive

Article 100 – paragraph 1

Text proposed by the Commission

Amendment

1. If a bundle of services or a bundle of services and ***goods*** offered to ***an end-user*** comprises at least a publicly available ***electronic communications service other than number-independent*** interpersonal communications services, Articles 95, 96 (1), 98 and 99 (***I***) shall apply mutatis mutandis to all elements of the bundle except where the provisions applicable to

1. If a bundle of services or a bundle of services and ***terminal equipment*** offered to ***a consumer*** comprises at least a publicly available ***internet access services or a publicly available number-based*** interpersonal communications services, Articles 95, 96 (1), 98 and 99 shall apply mutatis mutandis to all elements of the bundle except where the provisions

another element of the bundle are more favourable to the *end-user*.

applicable to another element of the bundle are more favourable to the *consumer*.

Or. en

Justification

This article should be limited to consumers as the term end-user, which includes businesses, could open this article to unintended results. Terminal equipment (phones, televisions, tablets, etc.) replaces goods as the term goods is almost unlimited in scope

Amendment 132

Proposal for a directive Article 100 – paragraph 2

Text proposed by the Commission

2. Any subscription to additional services or *goods* provided or distributed by the same provider of *publicly available electronic communications services other than number-independent* interpersonal communications services shall not *re-start the contract period* of the *initial* contract unless the *additional services or goods are offered at a special promotional price available only on the condition that the existing contract period is re-started*.

Amendment

2. Any subscription to additional services or *terminal equipment provided or distributed by the same provider of internet access services or of publicly available number-based* interpersonal communications services shall not *extend the term* of the contract unless the *consumer expressly agrees otherwise when subscribing to the additional services or terminal equipment*.

Or. en

Justification

The inclusion of the undefined concept of 'special promotional price' would leave the door open for abusive by providers who could extend contracts without giving a consumer a true choice

Amendment 133

Proposal for a directive Article 100 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Paragraphs 1 and 2 shall also apply to end-users who are micro or small enterprises, or not-for-profit

organisations unless they have explicitly agreed to waive all or parts of those provisions.

Or. en

Justification

these entities when acting as consumers should also be covered

Amendment 134

**Proposal for a directive
Article 101 – paragraph 1**

Text proposed by the Commission

Member States shall take all necessary measures to ensure the fullest possible availability of ***publicly available telephone services*** provided over public communications networks in the event of catastrophic network breakdown or in cases of force majeure. Member States shall ensure that ***undertakings providing publicly available telephone services*** take all necessary measures to ensure uninterrupted access to emergency services.

Amendment

Member States shall take all necessary measures to ensure the fullest possible availability of ***voice communications and internet access service*** provided over public communications networks in the event of catastrophic network breakdown or in cases of force majeure. Member States shall ensure that ***providers of voice communications and internet access service*** take all necessary measures to ensure uninterrupted access to emergency services.

Or. en

Justification

The term "publicly available telephone service" is replaced in the directive by "voice communications" and therefore seems to have remained here in error. Internet access service was not seen as an essential service when this article was originally drafted and therefore it should be open to amendment during this recast.

Amendment 135

**Proposal for a directive
Article 102 – paragraph 2**

Text proposed by the Commission

2. Member States, in consultation with national regulatory authorities and

Amendment

2. Member States, in consultation with national regulatory authorities and

emergency services and providers of electronic communications services, shall ensure that ***undertakings providing*** end-users with number-based interpersonal communications service provide access to emergency services through emergency communications to the most appropriate PSAP. ***In case of an appreciable threat to effective access to emergency services the obligation for undertakings may be extended to all interpersonal communications services in accordance with the conditions and procedure set out in Article 59 (1) (c).***

emergency services and providers of electronic communications services, shall ensure that ***providers of*** end-users with number-based interpersonal communications service provide access to emergency services through emergency communications to the most appropriate PSAP.

Or. en

Justification

Such an obligation is not justified as of now and the procedure set out in Article 59.1 (c) would never serve the propose descipted by the Commission. If the intention is to address an emergency situation, then the procedure in Article 59 is too slow to do that. If the intention is to address a fundamental switch from a number based system to a wholly number independent system, then this switch must be addressed by the ordinary legislative procedure, not via an implementing act.

Amendment 136

Proposal for a directive

Article 102 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Providers of number-independent interpersonal communications may allow access to emergency services or, where technical feasibly, the transfer of emergency communications to a number-based interpersonal communications service on the same device. Providers of number-independent interpersonal communications that do not offer such access shall, where relevant, inform end-users that access to the emergency number 112 is not supported.

Or. en

Justification

While they should not be required to do so, they might take volunteer measures to improve access to 112 services. But where they do not or cannot, they should inform their uses.

Amendment 137

Proposal for a directive Article 102 – paragraph 4

Text proposed by the Commission

4. Member States shall ensure that access for ***disabled end-users*** to emergency services is available through emergency communications and equivalent to that enjoyed by other end-users. ***Measures taken to ensure that disabled end-users are able to access emergency services through emergency communications whilst travelling in other Member States shall be based to the greatest extent possible*** on European standards or specifications published in accordance with the provisions of Article 39, and they shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in this Article.

Amendment

4. Member States shall ensure that access for ***end-users with disabilities*** to emergency services is available through emergency communications and equivalent to that enjoyed by other end-users, ***including through real time text or third-party relay services. The Commission and the national regulatory authorities and other competent authorities shall ensure that access to emergency services for end-users with disabilities is interoperable across Member States, and that end-users with disabilities are able to access them whilst travelling in other Member State based*** on European standards or specifications published in accordance with the provisions of Article 39, and they shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in this Article.

Or. en

Justification

clarification on the means of access for end-users with disabilities

Amendment 138

Proposal for a directive Article 102 – paragraph 5

Text proposed by the Commission

5. Member States shall ensure that caller location information is available to

Amendment

5. Member States shall ensure that caller location information is ***made***

the PSAP without delay after the emergency communication is set up. Member States shall ensure that the establishment and the transmission of the *caller* location information are free of charge for the end-user and to the *authority handling the emergency communication* with regard to all emergency communications to the single European emergency number '112'. **Member States may extend that obligation to cover emergency communications to national emergency numbers.** Competent regulatory authorities **shall lay** down criteria for the accuracy and reliability of the caller location information provided.

available to the PSAP without delay after the emergency communication is set up. ***This shall include both network-based location information and handset-derived caller location information, where technically feasibility.*** Member States shall ensure that the establishment and the transmission of the *end-user* location information are free of charge for the end-user and to the **PSAP** with regard to all emergency communications to the single European emergency number '112'. ***This shall not prevent*** competent regulatory authorities **from laying** down criteria for the accuracy and reliability of the caller location information provided.

Or. en

Justification

There is no longer a reason to exclude handset based location from the end-user location information available to PSAPs. As is clear in Recital 259, such information would be a complementary obligation to network-based information and would not replace this source. At the same, it is not yet always technically feasible for reasons not under the control of either the operator or the PSAP. For example, where a device lacks a Global navigation satellite system antenna or an end-user has disabled it.

Amendment 139

Proposal for a directive Article 102 – paragraph 6

Text proposed by the Commission

6. Member States shall ensure that citizens are adequately informed about the existence and use of the single European emergency number '112', in particular through initiatives specifically targeting persons travelling between Member States.

Amendment

6. Member States shall ensure that citizens are adequately informed about the existence and use of the single European emergency number '112', in particular through initiatives specifically targeting persons travelling between Member States ***including persons with disabilities.***

Or. en

Justification

includes persons with disabilities

Amendment 140

Proposal for a directive

Article 102 – paragraph 7 – subparagraph 1

Text proposed by the Commission

In order to ensure effective access to emergency services through emergency communications to ‘112’ services in the Member States, the Commission shall be empowered to adopt delegated acts in accordance with Article 109 on the measures necessary to ensure the compatibility, interoperability, quality, reliability and continuity of emergency communications in the Union with regard to caller location solutions, access for **disabled end-users** and routing to the most appropriate PSAP.

Amendment

In order to ensure effective access to emergency services through emergency communications to ‘112’ services in the Member States, the Commission shall, **after consulting BEREC**, be empowered to adopt delegated acts in accordance with Article 109 on the measures necessary to ensure the compatibility, interoperability, quality, reliability and continuity of emergency communications in the Union with regard to caller location solutions, access for **end-users with disabilities, including through real time text and use of third-party relay services**, and routing to the most appropriate PSAP.

Or. en

Justification

There does not seem to any justification to remove the consultation of BEREC before adopting a delegated act.

Amendment 141

Proposal for a directive

Article 102 a (new)

Text proposed by the Commission

Amendment

Article 102 a

Missing children hotline number

- 1. Member States shall ensure that citizens have access to a service operating a hotline to report cases of missing children. The hotline shall be available on the number '116000'.**
- 2. Member States shall ensure that**

end-users with disabilities are able to access services provided under the number '116000' to the greatest extent possible. Measures taken to facilitate the access of end-users with disabilities to such services whilst travelling in other Member States shall be based on compliance with relevant standards or specifications published in accordance with Article 39.

Or. en

Justification

Moved Article 90, which is wrongly placed within Title II

Amendment 142

**Proposal for a directive
Article 103 – title**

Text proposed by the Commission

Amendment

Equivalent access and choice for **disabled end-users**

Equivalent access and choice for **end-users with disabilities**

Or. en

Justification

technical amendment

Amendment 143

**Proposal for a directive
Article 103 – paragraph 1 – introductory part**

Text proposed by the Commission

Amendment

1. Member States shall ensure that the competent authorities specify, **where appropriate**, requirements to be met by **undertakings providing** publicly available electronic communications services to ensure that **disabled** end-users:

1. Member States shall ensure that the competent authorities specify requirements to be met by **providers of** publicly available electronic communications services to ensure that end-users **with disabilities**:

Justification

Based on further amendments, it is no longer needed to say 'where appropriate'.

Amendment 144

Proposal for a directive

Article 103 – paragraph 1 – point a

Text proposed by the Commission

(a) have access to electronic communications services equivalent to that enjoyed by the majority of end-users; and

Amendment

(a) have access to electronic communications services, ***including the related contractual information provided pursuant to Article 95***, equivalent to that enjoyed by the majority of end-users; and

Or. en

Justification

Pre-contractual information should be accessible to end users with disabilities

Amendment 145

Proposal for a directive

Article 103 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall also ensure that providers of publicly available electronic communications services take the necessary measures to make their websites and mobile applications more accessible by making them perceivable, operable, understandable and robust.

Or. en

Justification

Text based on the web accessibility directive. It should be understood that the EN standard applied to web accessibility of public sector websites and application equally applies here as the minimum accessibility level.

Amendment 146

Proposal for a directive Article 103 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *To that end, Member States shall ensure, to the extent that this does not impose a disproportionate burden on providers, the availability of related consumer terminal equipment and special equipment offering the necessary services and functions.*

Or. en

Justification

Reintroduction of deleted text of 2009/136/EC, amended in light of the proposal from the EEA and Web Accessibility Directives.

Amendment 147

Proposal for a directive Article 103 – paragraph 2

Text proposed by the Commission

Amendment

2. In taking *the* measures referred to in paragraph 1, Member States shall **encourage** compliance with the relevant standards or specifications published in accordance with Article 39.

2. In taking measures referred to in paragraph 1, Member States shall **ensure** compliance with the relevant standards or specifications published in accordance with Article 39, **including in particular European standard EN 301 549 V1.1.2 (2015-04)**.

Or. en

Justification

This ensures that there is a common understanding of the technique standards that apply in terms of this directive in regards to equivalents for disabled end-users. EN 301 549 covers both services and equipment.

Amendment 148

Proposal for a directive Article 105 – title

Text proposed by the Commission

Interoperability of consumer digital television equipment

Amendment

Interoperability of consumer digital **radio and** television equipment

Or. en

Justification

radio should be covered

Amendment 149

Proposal for a directive Article 105 – paragraph 1

Text proposed by the Commission

In accordance with the provisions of Annex X, Member States shall ensure the interoperability of the consumer digital television equipment referred to therein.

Amendment

In accordance with the provisions of Annex X, Member States shall ensure the interoperability of the consumer digital **radio and** television equipment referred to therein.

Or. en

Justification

radio should be covered

Amendment 150

Proposal for a directive Article 106 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall only impose 'must carry' obligations on analogue transmissions where a lack of such an obligation would cause a significant disturbance for a majority of end-users or where there are no other transmission

means for specified radio and television broadcast channels.

Or. en

Justification

Since the majority of consumer television and radio equipment in use today accepts both analogue and digital transmissions, there is no reason for a Member State to continue to impose 'must carry' obligations on both analogue and digital transmissions. Moreover, the removal of analogue obligations, while maintaining digital ones, will make available more spectrum for data supporting connected TV Services and electronic programme guides as well as other data, internet and broadcasting services. This, however, should not preclude such analogue transmission obligations where the majority of users still use the analogue channel or where the analogue broadcast is the sole means of broadcast (i.e. some community radio networks).

Amendment 151

Proposal for a directive
Article 107 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Article 83(2), Member States shall ensure that national regulatory authorities are able to require all **undertakings** that provide internet access services and/or publicly available number-based interpersonal communications services to make available all or part of the additional facilities listed in Part B of Annex VI, subject to technical feasibility **and economic viability**, as well as all or part of the additional facilities listed in Part A of Annex VI.

Amendment

1. Without prejudice to Article 83(2), Member States shall ensure that national regulatory authorities are able to require all **providers** that provide internet access services and/or publicly available number-based interpersonal communications services to make available **free of charge, where relevant**, all or part of the additional facilities listed in Part B of Annex VI, subject to technical feasibility, as well as all or part of the additional facilities listed in Part A of Annex VI.

Or. en

Justification

NOTE: Part B of Annex VI has only one facility (caller ID), but the rapporteur understands the wording to imply that the Commission will seek to amend the annex in the near future. This amendment might be revised if not the case. Call ID service should be free of charge

Amendment 152

Proposal for a directive Article 107 – paragraph 2

Text proposed by the Commission

2. A Member State **shall** waive paragraph 1 in all or part of its territory if it considers, after taking into account the views of interested parties, that there is sufficient access to these facilities.

Amendment

2. A Member State **may** waive paragraph 1 in all or part of its territory if it considers, after taking into account the views of interested parties, that there is sufficient access to these facilities.

Or. en

Justification

As this obligation has little or no cost, there is not reason to require Member States not to apply it where they see fit.

Amendment 153

Proposal for a directive Article 114 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. By ... [one year after the date of entry into force of this Directive] and annually thereafter, the Commission shall submit a report to the European Parliament and to the Council on the implementation of the obligations set out in Article 92a(1), including an assessment of the evolution of intra-Union communication tariffs.

Or. en

Amendment 154

Proposal for a directive Annex V – subheading 1

Text proposed by the Commission

Amendment

LIST OF SERVICES WHICH THE

LIST OF SERVICES WHICH THE

FUNCTIONAL INTERNET ACCESS SERVICE **SHALL BE CAPABLE OF SUPPORTING** IN ACCORDANCE WITH ARTICLE 79(2)

INTERNET ACCESS SERVICE IN ACCORDANCE WITH ARTICLE 79(2) **SHALL BE CAPABLE OF SUPPORTING**

Or. en

Justification

Aligns the title to the removal of the word 'functional' from the text

Amendment 155

**Proposal for a directive
Annex VI – part 1 – subpart a – paragraph 3**

Text proposed by the Commission

Calls which are free of charge to the calling end-users, including calls to helplines, are not to be identified in the calling end user's itemised bill.

Amendment

Calls which are free of charge to the calling end-users, including calls to helplines, are not to be identified in the calling end user's itemised bill, ***but may be made available through other means, such as online interfaces.***

Or. en

Justification

while it should not be in the itemised bill, it can be made available to end-users via a website, for example.

Amendment 156

**Proposal for a directive
Annex VI – part 2 – paragraph 3 a (new)**

Text proposed by the Commission

Amendment

National regulatory authorities may require operators to provide calling-line identification (CLI) free of charge.

Or. en

It should be free of charge

Amendment 157

Proposal for a directive Annex VIII – paragraph 1

Text proposed by the Commission

The national regulatory authority has a responsibility to ensure that the information in this Annex is published, in accordance with Article 96. It is for the national regulatory authority to decide which information is to be published by the ***undertakings providing publicly available electronic communications services, except number-independent*** interpersonal communications services and which information is to be published by the national regulatory authority itself, so as to ensure that ***consumers*** are able to make informed choices. If deemed appropriate, national regulatory authorities may promote self- or co-regulatory measures prior to imposing any obligation.

Amendment

The national regulatory authority has a responsibility to ensure that the information in this Annex is published, in accordance with Article 96. It is for the national regulatory authority to decide which information is ***relevant*** to be published by the ***providers of internet access services and providers of publicly available number-based*** interpersonal communications services and which information is to be published by the national regulatory authority itself, so as to ensure that ***all end-users*** are able to make informed choices. If deemed appropriate, national regulatory authorities may promote self- or co-regulatory measures prior to imposing any obligation.

Or. en

Amendment 158

Proposal for a directive Annex VIII – point 2 – point 2.1

Text proposed by the Commission

2.1. Scope of the services offered and the main characteristics of each service provided, including any minimum service quality levels offered and any restrictions imposed by the provider on the use of terminal equipment supplied.

Amendment

2.1. Scope of the services offered and the main characteristics of each service provided, including any minimum service quality levels offered and any restrictions imposed by the provider on the use of terminal equipment supplied, ***and accessible information about the functioning of the service and its***

Justification

Includes coverage for persons with disabilities

Amendment 159

**Proposal for a directive
Annex VIII – point 2 – point 2.2**

Text proposed by the Commission

2.2. Tariffs of the services offered, including information on communications volumes of specific tariff plans and the applicable tariffs for additional communication units, numbers or services subject to particular pricing conditions, charges for access and maintenance, all types of usage charges, special and targeted tariff schemes and any additional charges, as well as costs with respect to terminal equipment.

Amendment

2.2. Tariffs of the services offered, including information on communications volumes (***such as restrictions of data usage, numbers of voice minutes, numbers of SMSs***) of specific tariff plans and the applicable tariffs for additional communication units, numbers or services subject to particular pricing conditions, charges for access and maintenance, all types of usage charges, special and targeted tariff schemes and any additional charges, as well as costs with respect to terminal equipment.

Justification

As 'volumes' is not defined, general examples are needed in order to mirror the text of Article 95

Amendment 160

**Proposal for a directive
Annex VIII – point 2 – point 2.6**

Text proposed by the Commission

2.6. Details of products and services designed for ***disabled users***.

Amendment

2.6. Details of products and services designed for ***users with disabilities, including functions, practices, policies and procedures and alterations in the operation of the service targeted to***

address the needs of persons with functional limitations.

Or. en

Justification

Based on the wording of the EAA Directive on telecoms, Annex I.

Amendment 161

Proposal for a directive Annex VIII – point 2 – point 2.6 a (new)

Text proposed by the Commission

Amendment

2.6a. Accessible information to facilitate complementarities with assistive services.

Or. en

Justification

Based on the wording of the EAA Directive on telecoms

Amendment 162

Proposal for a directive Annex IX – Table 3

<i>Text proposed by the Commission</i>		
PARAMETER	DEFINITION	MEASUREMENT METHOD
Latency		
Jitter		
Packet loss		

<i>Amendment</i>		
PARAMETER	DEFINITION	MEASUREMENT METHOD
Latency	<i>ITU-T Y.2617</i>	<i>ITU-T Y.2617</i>
Jitter	<i>ITU-T Y.2617</i>	<i>ITU-T Y.2617</i>

Packet loss	<i>ITU-T Y.2617</i>	<i>ITU-T Y.2617</i>
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Or. en

Justification

Data to be entered in the table under 'for internet access services'. A technical ITU standard has been adopted.

Amendment 163

**Proposal for a directive
Annex X – part 2 a (new)**

Text proposed by the Commission

Amendment

2a. FUNCTIONALITY FOR RADIO SETS

Any radio set which is put on the market for sale or rent or which is otherwise made available in the Union from [date] shall be capable of receiving at least digital radio. Such radio sets shall also support analogue radio until such time as analogue radio is no longer made available in the 50 % of the territory of the Union.

Or. en

Justification

Requirement for Radio sets to support digital radio transmissions.